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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai

Addendum

Observations on communications transmitted to Governments and replies received*

* Reproduced as received.

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I. Introduction

1. The present document is submitted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolution 24/5. The document provides observations on the communications addressed by the Special Rapporteur to States, and on the replies received.

2. In the present addendum, the Special Rapporteur provides observations, on communications sent to States between 1 March 2014 and 28 February 2015. This report further contains observations on responses to the aforementioned communications received from States until 30 April 2015. The addendum also includes press releases issued between 1 March 2014 and 30 April 2015. Communications sent, responses received and press releases during the reporting period are accessible electronically through hyperlinks. The Special Rapporteur is aware of responses received after the reporting deadline that could not be reflected in the present report. He takes this opportunity to highlight the importance of timely replies.

3. For ease of reference, cases have been grouped by region, with countries within each region listed alphabetically according to their names in English. Each communication is referenced as an urgent appeal (UA) or other letter (OL), followed by the date the communication was issued, the case number and the date of the State reply. Press releases (PR) published during the reporting period are referenced below the communications in chronological order.

4. The communications and the relevant replies can also be accessed via the incorporated links or in the communications reports of Special Procedures A/HRC/27/72 (communications sent from 1 March 2014 to 31 May 2014 and replies received from 1 May 2014 to 31 July 2014), A/HRC/28/85 (communications sent from 1 June 2014 to 30 November 2014 and replies received from 1 August 2014 to 31 January 2015), and A/HRC/29/50 (communications sent from 1 December 2014 and 28 February 2015 and replies received between 1 February and 30 April 2015).

5. The Special Rapporteur is grateful to all States that have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 6 of the Human Rights Council resolution 24/5 that calls upon States "to continue to cooperate fully with and assist him in the performance of his mandate [and] to respond promptly to his urgent appeals and other communications..." Therefore, he urges all States which have not yet replied to his communications to do so without further delay.

II. Summary

6. Between 1 March 2014 and 28 February 2015, the Special Rapporteur sent 186 communications to 68 States. Of these communications, 101 were urgent appeals and 85 were other letters. A total of 68 cases consisted of follow-ups of cases that were previously the subject of communications, including 29 press releases.

7. Examined by region, the figures show that 21 communications were addressed to countries in the Africa region (11 per cent), 36 to countries in the Americas region (19 per cent), 63 in the Asia-Pacific region (34 per cent), 28 in the Europe and Central Asia region (15 per cent), and 38 in the Middle East and North Africa region (20 per cent).

8. During the reporting period, there was an average response-rate of 53 per cent to the Special Rapporteur's communications. While certain replies were merely

acknowledgements or receipt, the Special Rapporteur wishes to thank countries who have fully engaged and cooperated with the Special Procedures mechanisms and provided detailed information in response to the allegations addressed therein.

9. The Special Rapporteur sent 44 communications on alleged violations of the right to peaceful assembly and 106 on the right to freely associate, while 36 communications refer to both rights. Moreover, 127 of his communications concern alleged failure of States' positive obligations to establish and maintain an enabling environment for civil society and to actively protect peaceful assemblies, 36 communications concern alleged violations of States of their negative obligations to not unduly obstruct the exercise of the right to freedom of association and to not unduly interfere with the right to peaceful assembly, and 23 communications concern alleged violations of both obligations. Out of the 186 communications sent during the reporting period, 35 concern laws and draft laws and 68 are follow-ups to cases previously addressed by the Special Procedures.

10. Moreover, the Special Rapporteur sent 17 communications concerning alleged acts of intimidation and reprisals against civil society activists for their cooperation with the United Nations, its representatives and mechanisms in the field of human rights. During the reporting period, he sent communications about alleged acts of reprisals to the following countries: China, Cyprus, Honduras, Iran, Myanmar, Oman, Pakistan, the Russian Federation, Sri Lanka and Viet Nam. In this context, the Special Rapporteur wishes to reiterate that the Human Rights Council, in resolution 22/6, strongly called upon all States to "refrain from, and ensure adequate protection from, any act of intimidation or reprisals against those who cooperate, have cooperated or seek to cooperate with international institutions, including their family members and associates". Furthermore, he recalls that in resolution 24/24, the Human Rights Council urges all States to prevent and refrain from all acts of intimidation or reprisal against those who seek to cooperate of have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them. The resolution also urges States to ensure accountability for any acts of such intimidation or reprisal. The United Nations Secretary-General, in his 2014 report to the Human Rights Council on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, reminds that it is primarily the obligation of States to protect those who cooperate with the United Nations and to ensure that they may do so safely and without hindrance. He urged to "collectively denounce reprisals, defend the rights to cooperate freely with the United Nations and protect those targeted" (A/HRC/27/28).

III. Africa region

11. During the present reporting period, the Special Rapporteur sent 21 communications to countries in the Africa region. He takes note of the response rate of 29 per cent for the region. He strongly urges States who have not responded to communications to do so without further delay, as part of their continuous dialogue and cooperation with the Special Procedures of the Human Rights Council and in line with resolution 24/5 (2013).

12. The Special Rapporteur is disappointed to note that some Governments fail to see associations, and in particular human rights associations, as crucial partners for both good governance and the strengthening of functioning democracies. He continues to witness States aiming to obstruct the free operations of associations by passing complex laws that create confusion and fear among civil society and threaten to create self-censorship among associations. With this in mind, he expresses concern about Governments' increasing resort to restrictive laws that curb the right to freedom of association and argues for the need for further regulations for a variety of reasons, including for 'greater transparency'. In addition, he recalls that such laws violate States' international commitments and that most

importantly, fundamental freedoms are needed more than ever in situations where people disagree with the prevailing views and opinions.

13. In this context, the Special Rapporteur stresses that States should always promote and protect the right to associate and strive to restrict this right only in very limited circumstances in accordance with their international obligations. He reminds that under those specific circumstances, ambiguous restrictions are not allowed. Moreover, the restrictions must be both necessary and proportionate, not convenient and haphazard, lest those rare exceptions become the rule.

14. The Special Rapporteur takes this opportunity to reemphasize the two basic responsibilities of States to not unduly interfere when it is not required (i.e. its negative obligation) and to promote and protect (its positive obligation). These, he reminds, are concurrent obligations. Therefore, if an assembly remains peaceful, it has to be protected. The dispersal of assemblies should be a last resort and done only when circumstances necessitate this exception.

15. Furthermore, the Special Rapporteur recalls that he stands ready to provide technical assistance to ensure that States' normative frameworks and practices comply with international human rights norms and standards governing freedoms of association and assembly. He notes that country visits allow for him to analyse situations on the ground and to engage with local actors. He encourages countries to respond favourably to his requests for country visits.

Burundi

16. JUA 28/05/2014. Case no: BDI 1/2014. State reply: 09/09/2014. Allégations de l'arrestation et de la détention arbitraire du président de l'Association pour la Protection des Droits Humains et des Personnes Détenues (APRODH) au Burundi.

17. PR 30/04/2015. « La jeune démocratie du Burundi mise à risque par les violences pré-électorales, préviennent des experts de l'ONU»

Observations

Réponses aux communications

18. Le Rapporteur spécial remercie le Gouvernement des informations fournies en réponse à sa lettre du 28 mai 2014 (BDI 1/2014). Il remercie les autorités pour leur collaboration avec le mandat, conformément aux résolutions du Conseil des Droits de l'Homme 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environnement dans lequel les droits sont exercés

19. Le Rapporteur spécial reste fortement préoccupé par la situation de celles et ceux exerçant leurs droits à la liberté d'association et de réunion pacifique au Burundi et par le fait que l'arrestation de M. Mbonimpa, défenseur des droits de l'homme connu et respecté, arrêté en mai 2014 après avoir dénoncé l'existence de centres d'entraînement de jeunes Burundais à l'est de la République Démocratique du Congo, puis libéré pour raisons de santé en septembre 2014, puisse être liée à son travail pour la protection et promotion des droits de l'homme (BDI 1/2014).

20. Il est également vivement préoccupé par le fait que l'arrestation de M. Mbonimpa puisse avoir un effet dissuasif et d'intimidation pour les autres militants associatifs et politiques au Burundi. Il exhorte les autorités à prendre toutes les mesures nécessaires pour assurer que M. Mbonimpa, et plus généralement, tous les défenseurs des droits de l'homme,

puissent exercer librement leur droit à la liberté d'association et de réunion pacifique sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

21. Le Rapporteur spécial prend note avec attention des inquiétudes exprimées par le Comité des droits de l'homme faisant état d'interdictions de manifester au Burundi, d'actes d'intimidations et harcèlements à l'égard des manifestants, ainsi que de nombreux obstacles et entraves existant quant à la liberté de créer des associations (CCPR/C/BDI/CO/2, paragraphe 20). En outre, il retient avec vive préoccupation les violences politiques et usage excessif de la force par les agents de maintien de l'ordre observées par le Comité contre la torture lors de son examen du Burundi en décembre 2014 (CAT/C/BDI/CO/2, paragraphe 22).

22. Eu égard à la violence et aux nombreuses graves restrictions aux droits à la liberté d'association et de réunion pacifique, y compris l'harcèlement de défenseurs des droits de l'homme, constatées dans la période pré-électorale de 2015, il exhorte les autorités à faciliter l'organisation de manifestations pacifiques et à protéger activement les militants associatifs et politiques qui jouent un rôle majeur pour assurer un dialogue entre les autorités et toutes les parties prenantes (PR 30/04/2015). Il appelle les autorités à respecter le droit à la liberté d'association et de réunion pacifique, qui constitue un vecteur indispensable pour préserver la paix et la stabilité au Burundi.

Cameroon

23. JAL 08/01/2015. Case no: CMR 2/2014. State reply: None. Allégations de violations au droits à la liberté d'expression, de réunion pacifique, et à un procès équitable dans le cadre de l'adoption de la loi No. 962/PJL/AN « portant répression des actes de terrorisme » par le Cameroun.

Observations

Réponses aux communications

24. Le Rapporteur spécial regrette ne pas avoir reçu de réponse à sa communication datée du 8 janvier 2015. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, selon les résolutions du Conseil des Droits de l'Homme 24/5 (2013), 21/16 (2012) and 15/21 (2010), et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

Loi No 962/PJL/AN portant répression des actes de terrorisme

25. Bien que soucieux de l'importance d'élaborer un arsenal législatif approprié pour répondre de manière efficace à la menace terroriste, le Rapporteur spécial s'inquiète de nombreuses dispositions de la loi No 962/PJL/AN portant répression des actes de terrorisme qui restreignent indûment les droits à la liberté d'association et de réunion pacifique. Le Rapporteur spécial rappelle les autorités que les droits à la liberté d'association et de réunion pacifique ne peuvent être limités que dans des cas clairement déterminés, tel que stipulés aux articles 21 et 22 du Pacte international relatif aux droits civils et politiques. Il demande aux autorités de le tenir informé des mesures prises, y compris par la révision des articles pertinents de la loi No 962/PJL/AN, pour assurer que la lutte légitime contre le terrorisme ne porte pas indûment atteinte à la liberté des individus d'exercer librement leurs droits d'association et de réunion pacifique.

Côte d'Ivoire

26. JUA 11/03/2014. Case no: CIV 1/2014. State reply: None. Allégations d'attaques physiques et menaces de mort contre le personnel d'une organisation non gouvernementale.

Observations

Réponses aux communications

27. le Rapporteur spécial regrette qu'au moment de la finalisation du présent rapport, aucune réponse n'ait été transmise à sa communication, datée du 11 mars 2014, relative à des violences physiques et menaces de mort contre le personnel de Alternative-Côte d'Ivoire qui milite pour les droits des personnes vivant avec le VIH/Sida et les droits des personnes lesbiennes, gays, bisexuelles, transgenres et intersexuées (LGBTI). Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, conformément aux résolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) du Conseil des Droits de l'Homme.

Environnement dans lequel les droits sont exercés

28. Eu égard à la gravité des allégations portées à son attention, le Rapporteur spécial appelle les autorités à le tenir informé des mesures prises pour assurer la protection des membres de l'association Alternative-Côte d'Ivoire, qui ont dû suspendre leurs activités par crainte de nouvelles attaques. Il souligne que la suspension involontaire des activités d'une association a des conséquences particulièrement néfastes non seulement pour les membres de l'association concernées, mais aussi pour tous celles et ceux qui bénéficient de son travail.

29. Tout comme le Comité des droits de l'homme, le Rapporteur spécial note avec satisfaction l'adoption de la Loi No. 2014-388 du 20 juin 2014, portant promotion et protection des défenseurs des droits de l'homme (CCPR/C/CIV/CO/1, paragraphe 21). Il espère qu'elle sera promulgué dans les plus brefs délais et que des enquêtes, poursuites, condamnations et sanctions seront menées et appliquées sans attendre contre les auteurs de violences à l'encontre des personnes souhaitant exercer librement leurs droits d'association et de réunion afin de créer un environnement propice à l'exercice de ces droits.

Ethiopia

30. JUA 26/02/2015. Case no: ETH 2/2015. State reply: None. Alleged on-going detention and trial of nine bloggers and journalists charged under the Criminal Code and the 2009 Anti-Terrorism Proclamation for their legitimate exercise to the right to freedom of expression and association.

31. JUA 23/07/2014. Case no: ETH 7/2014. State reply: 09/12/2014. Alleged arbitrary arrest, detention and denial of medical treatment in detention of two opposition politicians.

32. JUA 22/05/2014. Case no: ETH 5/2014. State reply: None. Alleged excessive and indiscriminate use of force against peaceful protestors, including women and children, in the regional state of Oromia.

33. JUA 30/04/2014. Case no: ETH 3/2014. State reply: None. Alleged incommunicado detention of bloggers and freelance journalists who have been advocating for a space for free public dialogue, freedom of expression and access to information in Ethiopia.

34. PR 24/04/2015. "Continued detention of Ethiopian journalists unacceptable – UN human rights experts"

35. PR 18/09/2014. "UN experts urge Ethiopia to stop using anti-terrorism legislation to curb human rights"

Observations

Responses to communications

36. The Special Rapporteur thanks the Government of Ethiopia for its reply to one communication sent during this reporting period. However, he expresses his regret that the Government has not provided responses to the questions raised in the three other communications directed to its attention. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate and urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association. These resolutions, including resolution 24/5 (2013), call on States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications. In the absence of information to the contrary, the Special Rapporteur concludes that there is validity in the allegations presented in his communications.

Environment in which these rights are exercise

37. The Special Rapporteur restates his utmost concern for six members of the so-called "Zone Nine Bloggers" and three freelance journalists charged with terrorism under the Criminal Code and the 2009 Anti-Terrorism Proclamation for allegedly working with foreign human rights organizations and inciting violence through social media to create instability in the country (ETH 2/2015, ETH 3/2014 and PR 24/04/2015). The Special Rapporteur reminds that their detention and trial under the Anti-Terrorism Proclamation, and the charges brought against them, do not appear to comply with international, regional, and domestic human rights law and standards. He further takes the opportunity to urge the Government of Ethiopia to stop misusing anti-terrorism legislation to restrict the freedoms of expression and association in the country (PR 18/09/2014), and to implement relevant the recommendations accepted in this regard during its second cycle of the Universal Periodic Review without further delay (A/HRC/WG.6/19/L.12).

38. He stresses that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline (A/HRC/RES/24/5, operational paragraph 2). Moreover, he reaffirms that the rights to freedom of peaceful assembly and of association are necessary elements for the possible emergence and sustainability of effective democratic systems. In this regard, States should therefore make every effort to facilitate those rights.

39. The Special Rapporteur remains concerned regarding the alleged arbitrary detention of Mr. Olbana Lelisa and Mr. Bekele Gerba, both long-standing opposition politicians who campaigned in the 2010 national elections, and their alleged denial of necessary medical treatment in detention (ETH 7/2014). He thanks the Government for its detailed response, but reaffirms his concerns that actions against them were motivated by their peaceful exercise of their rights to freedom of expression and association and remains especially worried about the use of unlawful reasons to curtail these rights.

40. The Special Rapporteur is further concerned by the reported repression of peaceful protests by security forces and military special forces, including in high schools and universities in the central, eastern and western parts of the Oromia regional state. He reiterates his dismay at the alleged use of live ammunition and hand grenades against peaceful protestors and bystanders, their beatings and subsequent mass arrests after door-to-door searches. He expresses his grave concern at the deaths of at least 35 peaceful protestors, including children, in various cities of the Oromia state, and at the injuring of

numerous others (ETH 5/2014). The Special Rapporteur urges the authorities to inform him at the earliest of the results of the investigations of the circumstances leading to the killings, as well as of the status of investigations and interim measures put in place concerning the allegations of unlawful arrests and torture. He emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 3 of the Universal Declaration of Human Rights. In addition, and while expressing his serious concern at the reported instances of torture and ill-treatment, he recalls the importance of ensuring a free and unhampered enjoyment of the right to assembly and protest to build peaceful and democratic societies. To this end, he urges the Government of Ethiopia to respect, protect and fulfil the right to peaceful assembly.

41. He reminds the authorities of the Government of Ethiopia that protestors seek to convey opinions and, very often, challenge norms, and insists that while the State do not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs, it has a positive obligation to ensure the existence of an environment in which everyone can enjoy the right of peaceful assembly freely and without fear (A/HRC/20/27, paragraph 63). The Special Rapporteur recommends that the Government establish a presumption in favour of peaceful assemblies in law in a clear and explicit manner.

Country visit

42. The Special Rapporteur reminds the Government of Ethiopia of his country visit requests sent in 2011 and 2013, to which a response is yet to be received. He believes such a country visit may be an opportunity to discuss any technical assistance that the Government may require.

Kenya

43. JUA 17/02/2015. Case no: KEN 1/2015. State reply: None. Alleged serious criminal charges against eight human rights defenders who took part in a peaceful demonstration.

44. JAL 18/12/2014. Case no: KEN 7/2014. State reply: None. Alleged non-compliance with international human rights law and standards of a draft Security Laws (Amendment) Bill, 2014 amending Kenya's existing anti-terrorism legislation.

45. JAL 16/12/2014. Case no: KEN 6/2014. State reply: None. Alleged violations of the rights to life, health, a healthy environment, safe and healthy working conditions, as well as of the rights to access to information to peacefully assemble and to associate, resulting from the improper management of a lead smelter near the Owino Uhuru community from 2007 to 2014.

46. JAL 18/03/2014. Case no: KEN 3/2014. State reply: 21/03/2014 (acknowledgment). Alleged pattern of violent dispersal of peaceful assemblies, repeated arbitrary arrests of peaceful protestors, and reported sexual abuse of a female demonstrator.

Observations

Responses to communications

47. The Special Rapporteur takes note of the Government's acknowledgment of one of his communications. However, he regrets that the Government of Kenya failed to provide substantial responses to the questions raised in his communications since the establishment of the mandate in 2011. He considers responses to his communications as an important part of the cooperation of Governments with his mandate and urges again the authorities to

comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) that call upon States to cooperate fully with him and assist him in the performance of his mandate and to respond promptly to his communications. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

The Security Laws (Amendment) Bill, 2014

48. As indicated in the communication sent on 18 December 2014 (KEN 7/2014), the Special Rapporteur recalls that the Government of Kenya committed to protect and promote rights set forth in international human rights law and standards, and in that regard, looks forward to receiving a detailed reply to the concerns raised in his letter, including information the outcome of the debates related to the case, as soon as possible. He remains seriously concerned about certain provisions of the Security Laws (Amendment) Bill, 2014 that may negatively interfere with the ability of associations to freely perform their activities and of individuals to publicly expresstheir views. Similarly, he remains concerned by the vague wording of some of the provisions and cautions the authorities against ambiguous legal provisions governing the rights to freedom of peaceful assembly and of association that increase the risk of abuses and violations of these rights and infuse fear of breaking the law among society activists, which in turn can lead to self-censorship.

49. In addition, the Special Rapporteur warns against the practice of resorting to security considerations to adopt stricter measures that annul fundamental rights and freedoms. He articulates that there should be a presumption in favour of holding peaceful assemblies and associating freely. In his view, excessive restrictions, mass surveillance and shows of force attest that authorities in some Member States often presume the opposite, which has a chilling effect on civil society activism. He stresses that security considerations should not be used as a justification for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and of association.

50. The Special Rapporteur reminds the State of its obligation to ensure a conducive environment for the free exercise of the rights of peaceful assembly and association, rights enshrined in the International Covenant on Civil and Political Rights, acceded by the State on 1 May 1972. It also restates that, according to this same Covenant, only a very limited number of restrictions to these rights may apply, which should be prescribed by law and necessary in a democratic society for responding to a pressing social need for the interference.

51. In relation to the clauses aiming at countering terrorism, the Special Rapporteur recalls that even during a state of emergency, the rights to freedom of peaceful assembly and of association shall not be derogated. He advocates that when absolutely necessary, the measures provided by the International Covenant on Civil and Political Rights are adequate to combat terrorism or handle other security considerations.

52. The Special Rapporteur encourages the State to overturn any legislation that curtails the rights to freedom of peaceful assembly and of association.

Environment in which these rights are exercised

53. The Special Rapporteur remains concerned about the cases brought to his attention during the period under review. Namely, he reiterates his preoccupation at prima facie violations of the State's positive obligation to actively protect peaceful assemblies and to make sure members of association can operate freely and without fear.

54. He urges the Government of Kenya to put in place an enabling environment for associations to operate safely and for protests to take place free from undue restrictions. He remains concerned about the reported intimidation and threats against organizers of a

peaceful rally in Owino Uhuru village in April 2012 (KEN 6/2014) and about the alleged pattern of disruptions of peaceful assemblies and criminalization of protestors or assemblies' organizers, including non-governmental organizations, registered in Nairobi in February 2014 (KEN 3/2014) and December 2014 (KEN 1/2015).

Country visit

55. The Special Rapporteur thanks the Government for its invitation to carry out a visit to the country during the second half of March 2016. He hopes to revert back to the authorities in the briefest delays with a proposal for dates for this visit, within the framework of his other mandated activities for 2016, and reiterates his appreciation to the Government for its collaboration with the mandate.

Malawi

56. JUA 09/02/2015. Case no: MWI 2/2015. State reply: None. Alleged threats, intimidation and acts of defamation against human rights defenders and their organizations.

Observations

Responses to communications

57. The Special Rapporteur regrets that no response was received to date relating to the allegations contained in his communication indicating that members from two associations, Mr. MacDonald Sembereka of Malawi Network of Religious Leaders Living with or Personally Affected by HIV and AIDS (MANERELA+) and Mr. Gift Trapence of Centre for the Development of People (CEDEP), had been the victims of threats, intimidation and defamation while exercising their legitimate rights to associate and assemble. He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communication

Environment in which these rights are exercised

58. The Special Rapporteur reiterates his grave concern about alleged threats and intimidation against Mr. MacDonald Sembereka, Mr. Gift Trapence and their respective organizations, as well as about their safety and that of their families. He fears that these violations may be occurring as a direct result of their legitimate human rights work and their exercise of the right to peaceful assembly and to freedom of opinion and expression, especially in the context of the 12 January 2015 assemblies. Furthermore, he is particular worried about the smear campaign directed against Mr. Sembereka and both MANERELA+ and CEDEP.

59. In relation to the alleged threat to deregister non-governmental organizations' participating in the protests, he reminds the Government of the Malawi that the action to suspend or dissolve an association is one of the severest types of restrictions on freedom of association. Therefore, any such decision to suspend or dissolve an association should comply with international human rights law and standards, namely it should be guided by the principles of proportionality and necessity (A/HRC/20/27, paragraph 75).

60. He reiterates his recommendation to the Government to put in place an enabling and safe environment that is conducive to the free expression of civil society and political activists allowing individuals to exercise their legitimate freedom of association without

undue hindrances. He calls upon the authorities of Malawi to investigate any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association.

Country visit

61. The Special Rapporteur thanks the Government for accepting his request to carry out a visit to Malawi, as per its letter of 16 January 2014. He sincerely hopes to revert back to the authorities in the briefest delays with a proposal for dates for this visit, within the framework of his other mandated activities, and reiterates his appreciation to the Government for its collaboration with the mandate.

Niger (the)

62. JUA 26/05/2014. Case no: NER 1/2014. State reply: 26/08/2014. Allégations relatives à l'arrestation et à la détention arbitraire du coordinateur de l'organisation Volontaires pour l'Intégration Educative (V.I.E.) Kande Ni Bayra.

Observations

Réponses aux communications

63. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à sa lettre du 26 août 2014 concernant l'arrestation et la détention de M. Ali Abdoulaye. Il remercie les autorités pour leur collaboration avec le mandat, conformément aux résolutions du Conseil des Droits de l'Homme 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environnement dans lequel les droits sont exercés

64. Le Rapporteur spécial se réjouit de la libération de M. Abdoulaye, intervenue le 4 juin 2014, mais exprime de sérieuses préoccupations selon lesquelles son arrestation et rétention administrative arbitraires puissent être liés à son travail en faveur des droits de l'homme, en particulier la lutte que mène son organisation pour la réduction de la pauvreté au Niger. Il appelle les autorités à prendre toutes les mesures adéquates pour assurer que les défenseurs des droits de l'homme puissent exercer leurs droits à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Nigeria

65. JAL 18/07/2014. Case no: NGA 4/2014. State reply: None. Alleged undue restrictions to the right to freedom of association contained in the draft Bill to Regulate the Acceptance and Utilization of Financial/Material Contribution of Donor Agencies to Voluntary Organizations and for Matters Connected Therewith of 2014.

Observations

Responses to communications

66. The Special Rapporteur regrets that, to date, no reply has been received to his communication in relation to a proposed Bill to "Regulate the Acceptance and Utilization of Financial/Material Contribution of Donor agencies to Voluntary Organizations and for

Matters Connected Therewith". He recalls that responses to his communications are an important part of the cooperation of the Government of Nigeria with his mandate, and urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association. These resolutions, including resolution 24/5 (2013), call on States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

Proposed Bill to regulate voluntary organizations

67. The Special Rapporteur reiterates his preoccupation that the prohibition of voluntary organizations to receive foreign funds without registration, under sections 2 and 3 of the proposed Bill, is not in compliance with the right to freedom of association, which denotes restrictions to the right only under very specific circumstances. He also expresses dismay at the inability of voluntary associations to appeal restrictive decisions that prevent them from receiving funds from international donors. In relation to provisions on the access to funds and requirements for such access, he notes that the Government of Nigeria should ensure that all associations "can seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorization or other undue impediments, including from individuals; associations, foundations or other civil society organizations; foreign Governments and aid agencies; the private sector; the United Nations and other entities" (A/HRC/23/39, para. 82(b)).

68. Concerning the clause stipulating that all voluntary organizations can receive foreign funds only if they agree to receive such contribution through State channels, he is of the opinion that this may result in discretionary and arbitrary enforcement. This, along with the requirement to report on all funds received from foreign sources and how these are allocated or used, as well the requirement to obtain authorization from the authorities to receive or use funds, constitute human rights violations (A/HRC/23/39, paragraph 36). He further clarifies, particularly in reference to the inspection requirements, that the right of independent bodies to examine the associations' records with the goal of ensuring transparency and accountability should be in accordance with the principle of non-discrimination and the right to privacy. The right should not be exercised arbitrarily since it would otherwise place the independence of associations and the safety of their members at risk (A/HRC/20/27, paragraph 65).

69. While noting that the aforementioned proposed Bill provides for criminal sanctions against individuals contravening its provisions, including section 11, he cautions against measures that aim to deter people from exercising their fundamental right to freedom of association. He specifies that the possibility of disproportionate sentences can have a dissuasive effect on people wishing to exercise this right (A/HRC/20/27, paragraph 62). The Special Rapporteur is also preoccupied by the vague and imprecise definition of "Voluntary Organizations" in section 14 of the proposed Bill, which makes it difficult to foresee all the types of organizations which the Bill may cover.

70. The Special Rapporteur further requests full details of the proposed Bill, including the legal status, and an explanation of how its provisions are in accordance with Nigeria's obligations under international human rights law and standards, particularly with regard to the right to freedom of association. He stands ready to provide technical assistance to ensure that the State's normative framework complies with international human rights norms and standards governing freedoms of association and assembly, in accordance with the mandate attributed to him by the Human Rights Council.

Country visit

71. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Nigeria, as indicated by his October 2013 letter to the Government. He

trusts that such a visit would allow him to examine issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity and reiterates that Human Rights Council resolution 24/5 urges the States to consider favourably his requests for visits.

Rwanda

72. JUA 08/12/2014. Case no: RWA 2/2014. State reply: None. Alleged arrests and detentions of ousted members of the non-governmental organization Rwanda League for the Promotion and Defense of Human Rights (LIPRODHOR).

Observations

Responses to communications

73. The Special Rapporteur notes that he has not received a response to the allegations contained in his communication indicating that the ousted members of the LIPRODHOR had been arrested for their legitimate exercise of the right to associate (RWA 2/2014). He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communication.

Negative obligation of the State to not unduly interfere with these rights

74. The Special Rapporteur reiterates his grave concern about the reported arrests and temporary detentions of ousted members of LIPRODHOR and the prohibition to let them hold a general assembly meeting in November 2014. Furthermore, he restates that through the reported formal recognition of the of LIPRODHOR's disputed new leadership in 2013, the Rwanda Governance Board appears to have unlawfully interfered with the right of associations to freely determine their own boards, status and activities.

75. The Special Rapporteur warns against States' interferences that may seriously impair the enjoyment of the rights under his mandate (A/HRC/20/27, paragraph 20). He emphasizes the negative obligation of Rwandan authorities not to unduly obstruct the exercise of the right to freedom of association. Members of associations should be free to determine their statutes, structure and activities and make decisions without State interference and associations pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection (A/HRC/20/27, paragraph 64).

Country visit

76. The Special Rapporteur takes this opportunity to reiterate his thanks to the Government for the visit he undertook from 20 to 27 January 2014. He recalls the exemplary cooperation of the Government during the mission and remains grateful for its willingness to continue its efforts to engage in open and constructive dialogue.

Sierra Leone

77. JUA 25/09/2014. Case no: SLE 1/2014. State reply: None. Alleged threats against Marie Conteh, human rights defender and national coordinator of the non-governmental organization Women's Centre for Good Governance and Human Rights.

Observations

Responses to communications

78. The Special Rapporteur regrets to not have received a response to the communication on the case concerning Ms. Marie Conteh, national coordinator of the Women's Centre for Good Governance and Human Rights, WOCEGAR (SLE 1/2014). He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which members of associations can exercise their rights

79. The Special Rapporteur reiterates his concerns with regard to the alleged threats against Ms. Conteh due to her human rights activities. He reminds the Government of its obligation to respect and protect fundamental human rights, including the right of all individuals to freely associate. He underlines that this right involves the positive obligation to establish an enabling environment for members of associations to perform their activities without fear from threats or acts of intimidation and harassment of any sort. He also echoes the concerns of the Committee against Torture, the Committee on the Elimination of Discrimination Against Women and the Human Rights Committee which reviewed Sierra Leone in the past year, and that mention, among others, continuous reports of violence against women and the lenient treatment of such crimes by the police (CCPR/C/SLE/CO/1, paragraph 15).

South Sudan

80. JAL 23/10/2014. Case no: SSD 1/2014. State reply: None. Alleged undue limitations to the rights to freedom of association, expression and opinion, and excessive State interference in the legislative process of a draft law regulating associations.

Observations

Responses to communications

81. The Special Rapporteur regrets not to have received a response to his communication in relation to the alleged imminent adoption of the Non-Governmental Organization Bill, 2013 whose provisions seem to contradict South Sudan's international human rights obligations (SSD 1/2014). He reminds the Government that he considers responses to his communications as an integral part of States' cooperation with his mandate, according to Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Non-Governmental Organization Bill, 2013

82. The Special Rapporteur reminds the Government that narrowly defining the permissible work and objectives of associations represents an unnecessary limitation to the right of association. Additionally, he recalls that Governments are responsible for not

unduly interfering through excessive regulations with the right of associations to freely determine their statutes, members and activities. Moreover, he emphasizes that the right to freedom of association equally protects associations that are not registered and that the activities of associations should not be subject to prior authorization, which could be used to quell criticism. In this regard, he reiterates his concern that registration procedures as introduced by the Non-Government Organization Bill, 2013 are burdensome and subject to administrative discretion. He also reiterates his belief that newly adopted laws should not request previously registered associations to re-register as this would protected existing associations against arbitrary rejection of their applications or time gaps in the conduct of their activities.

83. While noting that the aforementioned Bill provides for severe criminal sanctions against individuals contravening its provisions, he caution against measures that aim to deter people from exercising their fundamental right to freedom of association. Such measures seem to attest a presumption against associations' right to exist and operate and have a deterring effect on people wishing to exercise this right (A/HRC/20/27, paragraph 62).

84. The Special Rapporteur understands that the National Legislative Assembly passed the Non-Governmental Organization Bill, 2013, which is currently awaiting the President's assent to become law. He asks the authorities to provide him with a copy of the Bill and to inform him about the legal procedure for its entry into force , at the earliest opportunity.

85. In the meantime, the Special Rapporteur calls upon the Government of South Sudan to repeal restrictive laws regulating associations and to ensure that the right to freedom of association, as recognized under article 20 of the Universal Declaration of Human Rights, is enjoyed free of arbitrary restrictions. He stands ready to provide technical assistance to ensure that State's normative framework complies with international human rights norms and standards governing freedoms of association and assembly.

86. The Special Rapporteur takes this opportunity to echo the concerns expressed by the United Nations High Commissioner for Human Rights in a recent report that conveys concern about a climate of fear and repression against civil society organizations (A/HRC/28/53, paragraph 24). In this regard, he urges the Government of South Sudan to ratify all the core international human rights instruments including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

Sudan (the)

87. JAL 10/07/2014. Case no: SDN 4/2014.https://spdb.ohchr.org/hrdb/27th/public_-_UA_Sri_Lanka_20.03.14_(3.2014).pdf State reply: 26/08/2014. Alleged arbitrary closure of a human rights organization promoting women's rights and gender equality.

88. JUA 26/05/2014. Case no: SDN 3/2014.https://spdb.ohchr.org/hrdb/27th/public_-_UA_Sri_Lanka_20.03.14_(3.2014).pdf State reply: 06/06/2014. Alleged arrest and incommunicado detention of a human rights defender.

89. JAL 07/05/2014. Case no: SDN 1/2014.https://spdb.ohchr.org/hrdb/27th/public_-_UA_Sri_Lanka_20.03.14_(3.2014).pdf State reply: None. Alleged intimidation and threats against a human rights defender and his family, and raid on the offices of the Human Rights Network for Democracy.

Observations

Responses to communications

90. The Special Rapporteur thanks the Government of the Sudan for its response to the allegations referring to the arbitrary closure of the Salmmah Women's Resource Centre in June 2014 (SND 4/2014) and the arrest and incommunicado detention of student activist Mr. Mohamed Salah Mohamed Abdelrhman (SDN 3/2014). However, he regrets that the communication sent on 7 May 2014 about the alleged threats against human rights defenders remains unanswered (SDN 1/2014). In this connection, the Special Rapporteur urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association that call on States to respond promptly to his communications, namely resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Negative obligation of the State to not to unduly interfere with these rights

91. The Special Rapporteur takes note that the authorities found no records of the existence of a non-profitable association under the name of Salmmah Women's Resource Centre. Given the severity of the allegations and the fact that the reported arbitrary closure of associations was the subject to a prior communication on 17 January 2013 (SDN 1/2013 and response 15/03/2013), the Special Rapporteur wishes to take this opportunity to remind the Government of the Sudan that the action to suspend or dissolve an association is one of the severest types of restrictions on freedom of association. Therefore, a decision to suspend or dissolve an association should be used only when less restrictive measures would be insufficient and should comply with international human rights law and standards, namely be guided by the principles of proportionality and necessity (A/HRC/20/27, paragraph 75).

Environment in which these rights are exercised

92. The Special Rapporteur remains concerned by the allegations of harassment and threats against a member of the Human Rights Network for Democracy and his family and trusts the Government will soon respond to the series of questions raised in his communication (SDN 1/2014). Similarly, he expresses concern at the reported arrest and ill-treatment in detention of a student activist who had voiced criticism against the handling of the protests and alleged killing of a protestor in Khartoum in March 2014 (SDN 3/2014). If verified, such actions could have a detrimental effect on other individuals exercising or wishing to exercise this right. The Special Rapporteur recalls the concerns of the Human Rights Committee at allegations indicating that State officials have subjected opponents and perceived opponents of the Government, human rights defenders and other activists to harassment, intimidation, arbitrary arrest and detention, and torture and ill-treatment (CCPR/C/SDN/CO/4, paragraph 22). He reminds the Government of the Sudan of its responsibility to guarantee an enabling environment for civil society activists to operate freely and without fear, as per article 22 of the International Covenant on Civil and Political Rights, acceded by the country on 18 March 1986.

Zambia

93. JAL 03/07/2014. Case no: ZMB 2/2014. State reply: 22/09/2014. Alleged imminent de-registration of two international non-governmental organizations operating in Zambia, based on the recent implementation of a law regulating their work.

Observations

Responses to communications

94. The Special Rapporteur is grateful for the response of the Government of Zambia to his communication on the alleged de-registration of two international non-governmental organizations, namely Dan Church Aid and Norwegian Church Aid, for failing to register under the Non-Governmental Organization Act No. 16 of 2009 (ZMB 2/2014). In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

The Non-Governmental Organization Act No. 16 of 2009

95. The Special Rapporteur duly takes note of the steps undertaken by the authorities to implement the said Act without causing disruptions in the activities of pre-existing associations, including the aforementioned two non-governmental organizations. However, he reiterates the concerns raised in a prior communication (ZMB 2/2013) where he analysed the draft provisions of the Act following the reported decision to fully operationalise it.

96. As previously expressed, he considers that the Non-Governmental Organizations Act No. 16 of 2009 gives broad power and unfettered discretion to the Government to interfere with the free operations of associations. Since it requires all non-governmental organizations formed after its passing to register with a Board that is extensively influenced by the Executive, and asks those in existence prior its enactment to apply for a certificate of registration, the Act gives broad discretion to the Government of Zambia to deny registration to associations. In this regard, the Special Rapporteur is disappointed by the decision of the authorities to enforce a law that violates international human rights law and standards and urge them to reconsider their decision and to repeal the Non-Governmental Organization Act No. 16 of 2009. He reminds the Government of Zambia that the action to suspend or dissolve an association is one of the severest types of restrictions on freedom of association. Therefore, a decision to suspend or dissolve an association should be used only when other, less restrictive, measures would be insufficient and should comply with international human rights law and standards, namely be guided by the principles of proportionality and necessity (A/HRC/20/27, paragraph 75). In addition, he underlines that the right to freedom of association equally protects associations that are not registered and that the activities of associations should not be subject to prior authorization, which could be used to quell criticism.

97. In connection with the above information, the Special Rapporteur warns against restrictions used in a manner that impairs the right to assembly and refers to the General Comment No. 31 of the Human Rights Committee on the nature of the general legal obligation imposed on States parties to the International Covenant on Civil and Political Rights, which states that "where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights" (CCPR/C/21/Rev.1/Add.13, paragraph 6).

Country visit

98. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Zambia, as indicated by his letter on 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which

renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

IV. Americas region

99. During the reporting period, the Special Rapporteur sent 36 communications to countries in the Americas region. A total of 14 communications were follow-ups to cases previously sent to the attention of the State concerned. He takes note that the response rate is 58 per cent for the Americas region. The Special Rapporteur remains concerned about worrying reports from the region regarding peaceful protestors and members of associations, including non-governmental organizations, political parties and trade unions, who were criminalized, stigmatized, intimidated, physically assaulted, arbitrarily arrested or detained, as well as killed, because they went to the streets to voice their discontent or they carried out legitimate activities that contradicted certain political or economic interests. Similarly, the Special Rappoteur is dismayed about the adoption of laws that unduly restrict the rights to peaceful assembly and association as well as the justifiфcation of "security considerations" for the surveillance and the infiltration of local social movements.

100. In this connection, the Special Rapporteur reminds States that the Human Rights Council stressed that peaceful protests should not be viewed as a threa and encouraged the States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes (A/HRC/RES/22/10). He reiterates that human rights and fundamental freedoms are indivisible and belong to every individual, hence they are not rights enjoyed by States, but rather by individuals who may espouse minority or dissenting views or beliefs. He stresses that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline (A/HRC/RES/24/5, operational paragraph 2). Moreover, he reaffirms that the rights to freedom of peaceful assembly and of association are crucial cornerstones for the possible emergence and sustainability of effective democratic systems. In this regard, States should therefore make every effort to facilitate and protect peaceful protests.

Argentina

101. JAL 20/02/2015. Case no: ARG 1/2015. State reply: 30/04/2015. Alegaciones relativas a interferencias entorno a la investigación de la muerte de un fiscal, a intentos de cercenamiento del ejercicio de los derechos a la libertad de expresión y de reunión pacifica de fiscales y jueces, y a amenazas de muerte y represalias en contra de un Juez.

Observaciones

Respuestas a comunicaciones

102. El Relator Especial agradece la respuesta detallada del Gobierno de Argentina, incluido sus extensos expedientes, del 30 de abril de 2015, que examinó con particular atención. En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Marcha del 18F

103. El Relator Especial toma nota de la información ofrecida por el Gobierno en la cual se aclara que la marcha en Buenos aires del 18 de febrero de 2015 convocada por los

fiscales argentinos en homenaje al fiscal Sr. Alberto Nisman se desarrolló de forma pacífica y sin interferencias.

104. Recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de reunión pacífica; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por Argentina el 8 de agosto de 1986.

Bolivia (Plurinational State of)

105. JAL 30/10/2014. Case no: BOL 3/2014. State reply: 13/02/2015, 13/02/2015, 02/01/2015 (response extension request). Presunta adopción del reglamento parcial 1987 de la Ley 351 de Otorgación de Personalidades Jurídicas que restringiría la libre asociación de las personas. En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Observaciones

Respuestas a comunicaciones

106. El Relator Especial agradece la respuesta del Gobierno del 13 de febrero de 2015 en la que se proporciona información en relación con las alegaciones formuladas de disconformidad de la Ley 351 con las obligaciones internacionales en materia de respeto y promoción de los derechos humanos contraídas por el Estado Plurinacional de Bolivia (BOL 3/2014). En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Ley 351 de Otorgación de Personalidades Jurídicas

107. El Relator Especial toma nota de la respuesta de las autoridades. No obstante, considera que el carácter vago e impreciso de los alcances de la mencionada ley, que ya ha sido objeto de una opinión desfavorable del Comité de Derechos Humanos el 6 de diciembre de 2013 (CCPR/C/BOL/CO/3, párrafo 24), hace posible interferencias arbitrarias por parte del Estado en el libre ejercicio del derecho de asociación y, por ende, debería ser revisado. El Relator Especial recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, accedido por el Estado Plurinacional de Bolivia el 12 de agosto de 1982.

Brazil

108. JAL 25/08/2014. Case no: BRA 7/2014. State reply: None. Alleged violent dispersal of peaceful demonstrations, excessive use of violence against them, and arbitrary arrests of protestors, including human rights defenders, in the cities of São Paulo and Rio de Janeiro.

109. JAL 04/04/2014. Case no: BRA 3/2014. State reply: 27/08/2014. Alleged repression of peaceful protests, limitations on the right of peaceful assembly, interference with the right to freedom of association and allegations of legislation, including draft legislation, which unduly restricts the rights to peaceful assembly and association.

Observations

Responses to communications

110. The Special Rapporteur thanks the Government of Brazil for the detailed reply to the communication sent on 4 April 2014, indicating that reports of excessive use of force by law enforcement officials during public gatherings were met with numerous measures aimed at investigating and punishing perpetrators as well as strengthening capacity-building and oversight mechanisms (BRA 3/2014). However, he regrets that the Government of Brazil has not replied to the communication on 25 August 2014 and urges it to provide a detailed response to the questions raised in his letter (BRA 7/2014), in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Management of peaceful protests

111. The Special Rapporteur takes note of the training received by the police forces and the initiatives to improve the work of law enforcement officials including a course on the proportionate use of force. While he recognizes the steps taken by the Government to investigate the death of a media worker killed during a protest as well as to ensure the release of two other individuals (when the criteria for determining legality of their arrest was not met), he expresses concern at the reported prosecution of a large number of individuals involved ? in peaceful protests (BRA 3/2014). The Special Rapporteur reminds the Government of its obligation to facilitate peaceful protests and is of the opinion that the presumption in favour of the right to peaceful assembly does not cease as a result of sporadic violence or other punishable acts committed by certain individuals in the course of a demonstration (A/HRC/20/27, paragraph 25).

112. The Special Rapporteur remains disturbed by allegations of excessive use of force by the police against peaceful protestors in a series of assemblies and at the allegations of mass arrests of individuals aimed at intimidating critics and discouraging participation in public demonstrations ((BRA 7/2014). He remains troubled by the arrests of individuals known for monitoring unlawful arrests during peaceful protests and the confiscation and damage to media equipment of journalists. He recalls the important monitoring role played by observers and media and notes that attacks against such individuals should be promptly and thoroughly investigated.

Laws regulating peaceful protest and association

113. The Special Rapporteur reiterates his concerns regarding law 6528/13 that provides for the detention of demonstrators wearing masks as well as draft law 5.964/13 that prohibits any means that prevent the identification of protestors, which may result in additional limitations to the right to peaceful assembly. Such measures could be used to target particular groups using such items or masks for legitimate reasons, including to identify fellow demonstrators, to make a political statement or out of fear of retribution. He recalls that security considerations should not be used as a justification for the adoption of stricter rules that annul the right to freedom of peaceful assembly (A/HRC/26/29 paragraph 33).

114. Regarding the possibility of investigations under law No. 12.850, on Criminal Organizations, which would allow the Prosecutor General to access information on individuals under investigation or infiltrate into the alleged criminal organization to obtain evidence, the Special Rapporteur acknowledges that the aim of the legislation is to regulate the activities of criminal organizations. However, he remains concerned about its potential to unduly interfere with, or curb, the rights to association or assembly. He requests the Government to keep him informed on the progress made into the investigations of the

alleged infiltration of the Xingu Vivo organization by agent investigating their legitimate activities.

Canada

115. JAL 27/11/2014. Case no: CAN 1/2014. State reply: 27/01/2015, 27/01/2015, 27/01/2015, 27/01/2015, 27/01/2015, 27/01/2015. Alleged surveillance of environmental and aboriginal organizations in the context of hearings concerning an oil pipeline project.

Observations

Responses to communications

116. The Special Rapporteur thanks the Government of Canada for its detailed response to his communication. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Security considerations in the context of projects relating to natural resource exploitation

117. The Special Rapporteur takes note of the Government's reply indicating that, in order, to prepare for possible public assemblies and ensure the safety of the public and the hearings into the Northern Gateway Project, National Energy Board officials studied pertinent, publicly available, information and consulted with law enforcement officials and their intelligence partners, in accordance with applicable legal standards (CAN 1/2014). He acknowledges the domestic legal review mechanisms and forums available for investigating complaints of surveillance and monitoring and the compliance of law enforcement authorities as well as intelligence officials. He recalls that the State committed to protect and promote rights set forth in international law and standards, and in that regard, looks forward to receiving further information on the outcome of the proceedings and investigations related to the case.

118. The Special Rapporteur is pleased that the Canadian Security Intelligence Service (CSIS) Act "... prohibits CSIS from investigating acts of lawful advocacy, protest, or dissent [and that] CSIS may only investigate these types of acts if they are linked to threats to Canada's national security." However, he articulates that there should be a presumption in favour of holding peaceful assemblies and associating freely and that security considerations should not be used as a justification for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and of association. The Special Rapporteur contends that no restrictions may be placed on the exercise of those rights other than those that are strictly necessary in a democratic society and proportionate to the interest to be protected.

Country visit

119. The Special Rapporteur reminds the Government of Canada of his willingness to undertake a country visit to Canada, as indicated in his letters from 2013, 2014 and 2015 and during his meetings with Government representatives. He takes note of the reply dated 9 April 2015 indicating the request has been forwarded to the appropriate authorities for consideration. He looks forward receiving a positive reply.

Colombia

120. JUA 12/12/2014. Case no: COL 11/2014. State reply: 21/01/2015. Alegaciones de supuestos asesinatos, amenazas y agresiones contra miembros del Sindicato SINALTRAINAL.

121. JAL 11/08/2014. Case no: COL 6/2014. State reply: 30/04/2015, 14/04/2015, 08/10/2014. Presuntos asesinatos, ataques y actos de intimidación contra defensores de derechos laborales.

122. PR 29/09/2014 (2). "Colombia: Expertos de la ONU advierten que el Proyecto de Ley sobre la jurisdicción penal militar representa un retroceso para los derechos humanos"

123. PR 29/09/2014. "Carta abierta de titulares de mandatos de los Procedimientos Especiales del Consejo de Derechos Humanos de las Naciones Unidas al Gobierno y a los representantes del Congreso de la República de Colombia"

Observaciones

Respuestas a comunicaciones

124. El Relator Especial agradece las respuestas del Gobierno de Colombia a sus comunicaciones. En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación de uniones sindicales

125. El Relator Especial toma nota de las medidas específicas contenidas en el Plan Integral de Prevención para identificar las poblaciones y zonas vulnerables y contrarrestar amenazas. A su vez, toma nota de las cifras del Instituto Nacional de Medicina Legal y Ciencias Forenses que registran una disminución de asesinatos contra sindicalistas entre 1996 y 2014. No obstante, el Relator Especial continua preocupado por la persistencia en Colombia de un patrón de asesinatos, ataques, amenazas de muerte y allanamientos en contra de sindicalistas y miembros de organizaciones que trabajan con uniones sindicales. Si bien el número de asesinatos disminuyó, los 17 asesinatos registrados por el Instituto Nacional de Medicina Legal y Ciencias Forenses en 2014, según respuesta del 21 de enero de 2015, siguen siendo alarmantes, especialmente si a ellos se suman las amenazas, ataques, intimidaciones que recortan gravemente el derecho de libre asociación. El Relator Especial recuerda la obligación positiva de los Estados Partes del Pacto Internacional de Derechos Civiles y Políticos de garantizar la protección de los derechos contenidos en dicho Pacto contra violaciones por sus agentes y por personas o entidades privadas, la cual incluye el deber de adoptar las medidas adecuadas para prevenir, investigar, juzgar y sancionar a los responsables, y reparar el daño causado (CCPR/C/21/Rev.1/Add.13, párrafos 8 y 18). A su vez, advierte contra los entornos que puedan obstaculizar gravemente el disfrute de esos derechos (A/HRC/20/27, párrafo 20). Por otro lado, el Relator Especial agradece al Gobierno continuar manteniéndolo informado, en forma oportuna, del estado de las investigaciones y medidas adoptadas para garantizar los derechos de los defensores y defensoras de derechos laborales mencionados en su comunicación del 11 de agosto de 2014 (COL 6/2014).

Proyecto de Ley No. 85 de 2013 frente al Senado

126. El Relator Especial reitera su preocupación acerca de los intentos de extender la jurisdicción de los tribunales militares y policiales sobre crímenes tales como delitos contra el orden público que, al no estar relacionados con delitos penales y faltas disciplinarias de

carácter estrictamente militar presuntamente cometidos por personal miliar o policial, deberían estar bajo la jurisdicción ordinaria. El Relator Especial solicita al Gobierno de Colombia mantenerlo informado de la situación actual del referido proyecto de ley.

Cuba

127. JUA 21/07/2014. Case no: CUB 2/2014. State reply: None. Presuntos ataques, detenciones arbitrarias y actos de represalia contra defensores y defensoras de derechos humanos en Cuba.

Observaciones

Respuestas a comunicaciones

128. El Relator Especial lamenta no haber recibido una respuesta a su comunicación y reitera considerar las respuestas a sus comunicaciones como un componente esencial de la cooperación de los Gobiernos con su mandato, según resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. Por consiguiente, insta a las autoridades a proporcionar respuestas detalladas a todas las inquietudes planteadas en su comunicación lo antes posible.

Situación del entorno

129. Al Relator Especial le preocupa el medio en el que son ejercidos los derechos de libre asociación y de reunión pacífica y advierte contra los entornos que puedan obstaculizar gravemente el disfrute de esos derechos (A/HRC/20/27, párrafo 20). Los casos que le han sido reportados señalan ataques, amenazas y actos de hostigamiento en contra de miembros de asociaciones que militan por los derechos humanos en Cuba. El Relator Especial recuerda que si bien el Estado puede no estar de acuerdo con las opiniones y críticas expresadas por personas que abrazan convicciones o creencias disidentes, tiene la obligación positiva de asegurar la existencia de un entorno propicio para la sociedad civil, en términos de disfrute de los derechos de reunión pacífica y de asociación, para que aquélla pueda existir, operar y expresarse pacíficamente sin ningún temor (A/HRC/20/27, párrafo 63).

Visita de país

130. El Relator Especial confía en que el Gobierno de Cuba responderá favorablemente a sus solicitudes de visita hechas en 2011, 2012 y 2013. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sur solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

Ecuador

131. JUA 26/01/2015. Case no: ECU 1/2015. State reply: None. Presunta terminación unilateral del contrato de comodato de la Confederación de Nacionalidades Indígenas del Ecuador.

132. JUA 02/12/2014. Case no: ECU 3/2014. State reply: None. Alegaciones de secuestro, amenazas y una campaña de desprestigio contra una defensora de derechos LGBTI.

133. JAL 05/09/2014. Case no: ECU 2/2014. State reply: None. Alegaciones de actos intimidatorios por parte de la Policía y la Dirección de Migración y Extranjería contra un ex miembro y colaborador de la Fundación Pachamama.

Observaciones

Respuestas a comunicaciones

134. El Relator Especial lamenta no haber recibido ninguna respuesta a sus preguntas por parte del Gobierno de Ecuador durante el período del presente informe. Reitera considerar las respuestas a sus comunicaciones como un componente esencial de la cooperación de los Gobiernos con su mandato, según resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. Por consiguiente, insta a las autoridades a proporcionar respuestas detalladas con la menor dilación posible a todas las inquietudes planteadas en sus comunicaciones.

Situación del entorno

135. El Relator Especial observa con preocupación el presunto desarrollo en Ecuador de un entorno crecientemente restrictivo e intimidatorio para los miembros de organizaciones de la sociedad civil, en particular para los activistas por los derechos de las comunidades indígenas. El Relator Especial reitera las preocupaciones expresadas en sus comunicaciones arriba mencionadas. De esta forma, insiste en el serio perjuicio que podría suponer para todas las organizaciones indígenas del país, el desalojo de la Confederación de Nacionalidades Indígenas del Ecuador (CONAIE) según su comunicación del 26 de enero de 2015 (ECU 1/2015). Asimismo, reitera su grave preocupación respecto del presunto cierre de la Fundación Pachamama y de las alegaciones recibidas que indican que antiguos miembros y colaboradores de dicha fundación habrían sido víctimas de hostigamientos e intimidación por parte de las fuerzas de seguridad (ECU 2/2014). Por otro lado, al Relator Especial le preocupan que defensores de derechos de las personas Lesbianas, Gays, Bisexuales, Transgéneros, Transexuales, Travestis e Intersex (LGBTI) puedan ser víctimas de amenazas y campañas de difamación como le fue reportado en la comunicación con fecha del 2 de diciembre de 2014 (ECU 3/2014). El Relator Especial recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por Ecuador el 6 de marzo de 1969.

Grupos sometidos a mayores riesgos

136. Con respecto a las alegaciones que indican en particular ataques cometidos contra miembros de comunidades indígenas o contra personas en razón de su orientación sexual e identidad de género, el Relator Especial invita al Gobierno de Ecuador a referirse a los instrumentos legislativos internacionales que señalan medidas y principios concretos que los Estados deben adoptar para lograr la no discriminación y la igualdad; entre otros, la Declaración de las Naciones Unidas sobre los derechos de los pueblos indígenas que exhorta a los Estados a combatir los prejuicios, eliminar la discriminación y promover la tolerancia, la comprensión y las buenas relaciones entre los pueblos indígenas y todos los demás sectores de la sociedad, y el informe del Alto Comisionado de las Naciones Unidas para los Derechos Humanos que solicita a los Estados proteger a las personas frente a la violencia homófoba y transfóbica, prevenir la tortura y los tratos crueles, inhumanos y degradantes motivados por la orientación sexual y la identidad de género y prohibir también la discriminación por esos motivos, revocar las leyes que tipifiquen como delito la homosexualidad, salvaguardar las libertades de expresión, de asociación, y de reunión pacífica para las personas LGBTI y reconocer sus derechos a disfrutar o ejercer, en pie de

igualdad con los demás, todos los derechos humanos y las libertades fundamentales (A/HRC/19/41).

Visita de país

137. El Relator Especial confía en que el Gobierno de Ecuador responderá favorablemente a sus solicitudes de visita hechas en 2014 y 2015. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sur solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

Guatemala

138. JAL 07/04/2014. Case no: GTM 3/2014. State reply: None. Presuntas agresiones y detenciones de integrantes de la organización Comité de Desarrollo Campesino (CODECA).

139. JAL 10/03/2014. Case no: GTM 1/2014. State reply: 08/05/2014. Presunta iniciativa legislativa que podría tener efectos restrictivos serios e indebidos sobre la libertad de reunión y expresión de las personas, particularmente de los defensores y las defensoras de los derechos humanos.

Observaciones

Respuestas a comunicaciones

140. El Relator agradece la respuesta del Gobierno de Guatemala en la cual se le indica que la Ley para la Circulación por Carreteras Libre de Cualquier Tipo de Obstáculos, Decreto 8-2014 del Congreso, fue aprobado por urgencia nacional el 19 de febrero de 2014 (GTM 1/2014). Sin embargo, lamenta no haber recibido una respuesta su comunicación del 7 de abril de 2014 (GTM 3/2014) y solicita a las autoridades a responder a los interrogantes planteados en esta comunicación en la mayor brevedad, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos, que instan a los Estados a colaborar plenamente con su mandato.

Ley para la Circulación por Carreteras

141. El Relator Especial leyó con atención las respuestas a los interrogantes planteados en su comunicación del 10 de marzo de 2014 (GTM 1/2014), así como el pronunciamiento del Gobierno sobre la mencionada normativa, y se congratula por el compromiso de las autoridades de garantizar el libre goce y ejercicio de los derechos humanos de los habitantes de Guatemala, incluido los derechos de reunión pacífica y de asociación. No obstante, refuta los argumentos esgrimidos por el Gobierno de que la Ley para la Circulación por Carreteras Libre de Cualquier Tipo de Obstáculos provee una definición más clara y precisa de los supuestos jurídicos o de derecho del sujeto activo del delito. Contrariamente, el Relator Especial reitera considerar que la ley mencionada es ambigua respecto a sus alcances y por tanto permite interpretaciones arbitrarias que ponen en riesgo el derecho de reunión pacífica. El Relator Especial recuerda que los manifestantes buscan transmitir opiniones y, muy a menudo, desafiar normas, y que si bien su derecho puede ser restringido en ciertas limitadas circunstancias, el hecho de entorpecer la circulación no constituye un motivo válido. El derecho de reunión, al depender del uso fundamental del espacio público, puede, entre otros, causar desafíos tales como interrupciones en la circulación de vehículos, sin embargo, en opinión del Relator Especial, deberá ser siempre promovido y protegido por el Estado quién deberá asimismo abstenerse de interferir cuando no sea necesario, de conformidad con sus obligaciones internacionales. En este sentido, el

Relator Especial hace referencia a la Observación general N° 31 (2004) del Comité de Derechos Humanos sobre la índole de la obligación jurídica general impuesta a los Estados partes en el Pacto Internacional de Derechos Civiles y Políticos, en la que se establece que "cuando se introducen restricciones, los Estados deben demostrar su necesidad y adoptar únicamente las medidas que resulten proporcionales a la consecución de los legítimos objetivos para lograr una protección constante y eficaz de los derechos del Pacto"(párrafo 6).

Situación del entorno

142. El Relator Especial permanece hondamente preocupado por las alegaciones de agresiones, señalamientos y detenciones de representantes de comunidades indígenas por su participación en manifestaciones pacíficas y reuniones comunitarias en marzo de 2014 (GTM 3/2014). El Relator Especial advierte contra los entornos que puedan obstaculizar gravemente el disfrute de este derecho y recuerda al Gobierno de Guatemala su obligación de proteger activamente las reuniones pacíficas (A/HRC/20/27, párrafo 33) y asegurar que las personas que ejercen el derecho a la libertad de asociación puedan actuar libremente, sin temor a posibles amenazas, actos de intimidación o violencia, como arrestos o detenciones arbitrarios o campañas difamatorias en los medios de difusión (A/HRC/20/27, párrafo 63); ambos derechos consagrados en el Pacto Internacional de Derechos Civiles y Políticos, accedido por el país el 5 de mayo de 1992.

143. A su vez, el Relator Especial recuerda que el derecho de asociación protege también a los miembros de sindicatos y, en este sentido, toma nota con atención de las observaciones del Comité de Derechos Económicos, Sociales y Culturales que durante su examen de Guatemala, en diciembre de 2014, expresó preocupación por las limitaciones observadas en el ejercicio del derecho a fundar sindicatos y a ejercer los derechos sindicales, que presupondrían una violación del artículo 8 del Pacto Internacional de Derechos Económicos, Sociales y Culturales. (E/C.12/GTM/CO/3, párrafo 16).

Visita de país

144. El Relator Especial agradece la invitación a su mandato el 9 de enero de 2013 y confía en que el Gobierno de Guatemala responderá favorablemente y en la brevedad a su proposición de fechas para una visita en el transcurso del año 2016.

Haiti

145. JUA 21/08/2014. Case no: HTI 2/2014. State reply: None. Allegations concernant les menaces à l'encontre d'une défenseure des droits des femmes.

146. JUA 21/05/2014. Case no: HTI 1/2014. State reply: None. Allégations des menaces de mort perpétrées à l'encontre d'un défenseur des droits de l'homme.

Observations

Réponses aux communications

147. Le Rapporteur spécial regrette ne pas avoir reçu de réponses à ses communications datées du 8 janvier 2015 et 21 mai 2015. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, conformément aux résolution 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme, et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

Environnement dans lequel les droits sont exercés

148. Eu égard à la gravité des allégations rapportées, le Rapporteur spécial regrette qu'aucune réponse n'ait été transmise par le Gouvernement d'Haïti. Il considère les menaces contre les défenseurs des droits de l'homme actifs au sein d'association une sérieuse source de préoccupations, non seulement pour les personnes visées, mais plus généralement pour le message qu'elle porte envers les autres personnes qui souhaiteraient s'engager pour la défense des droits de l'homme. Etant donné les rapports faisant état de tentatives d'assassinat contre des militants des droits de l'homme perpétrées dans le passé, il appelle le Gouvernement d'Haïti à diligenter sans tarder des enquêtes sur les menaces à l'encontre de Mme Wilda Pyram et de M. Pierre Espérance et de traduire les auteurs de ces violations en justice. Il appelle les autorités à mettre en place toutes les mesures nécessaires pour protéger les individus exerçant leurs droits à la liberté d'association et de réunion pacifique contre toute menace, violence, intimidation ou représailles.

149. Il saisit l'occasion pour réitérer les préoccupations exprimées par le Comité des droits de l'homme lors de son examen du pays en novembre 2014 vis-à-vis les allégations de menaces, harcèlements et intimidations à l'encontre de défenseurs des droits de l'homme, journalistes et membres de l'opposition de la part des forces de police et de sécurité et des autorités politiques, ainsi que l'absence de protection octroyée par l'État partie à cet égard (CCPR/C/HTI/CO/1, paragraph 19)

Honduras

150. JAL 09/12/2014. Case no: HND 8/2014. State reply: 17/03/2015. Presuntas alegaciones de robo en las oficinas de una organización que trabaja para los derechos de las personas LGBTI y en prevención del VIH.

151. JUA 12/09/2014. Case no: HND 7/2014. State reply: 23/02/2015. Alegaciones sobre amenazas y actos de intimidación y hostigamiento contra periodistas y defensores de derechos humanos en Honduras.

152. JUA 20/06/2014. Case no: HND 6/2014. State reply: None. Presuntos actos de intimidación, represalias y agresiones contra integrantes del Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH).

153. JAL 26/05/2014. Case no: HND 5/2014. State reply: None. Presuntas agresiones por parte de agentes del orden y detención del director de una organización de defensa de los derechos del niño que trabaja con víctimas de explotación sexual y trata de personas.

154. JUA 02/04/2014. Case no: HND 2/2014. State reply: None. Presunto atentado contra la vida de una defensora de los derechos de las comunidades indígenas y agresión de su hijo menor de edad.

Observaciones

Respuestas a comunicaciones

155. El Relator Especial agradece el Gobierno de Honduras por sus respuestas a las comunicaciones del 9 de diciembre de 2014 (HND 8/2014) y 12 de septiembre de 2014 (HND 7/2014). Sin embargo, lamenta no haber recibido una respuesta sus otras tres comunicaciones enviadas en el período del presente reporte. En este sentido, recuerda al Estado que considera aquellas respuestas como formando parte integral de la cooperación de los Estados con su mandato, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación del entorno

156. El Relator Especial solicita a las autoridades responder lo antes posible a los interrogantes planteados en la comunicación del 20 de junio de 2014 (HND 6/2014) acerca de presuntos actos de intimidación y amenazas contra miembros del Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH). Asimismo, pide al Gobierno de Honduras mantenerlo informado del estado de las investigaciones respecto del asesinato del Sr. Juan Carlos Argeñal Medina, las denuncias por supuestas amenazas de la Sra. Dina Meetabel Meza Elvir y del Sr. Julio Ernesto Alvarado, así como las supuestas presiones por parte de funcionarios públicos que habrían resultado en el cierre del programa televisivo del Sr. Miguel Dubón.

157. El Relator Especial reitera su preocupación respecto de los repetidos ataques y actos de hostigamiento contra defensores y defensoras de los derechos humanos en Honduras, incluyendo miembros de asociaciones indígenas (HND 2/2014) y de organizaciones trabajando para los derechos de las personas LGBTI (HND 8/2014). Se congratula por el compromiso adoptado por el Gobierno de garantizar un entorno favorable para el ejercicio de derechos fundamentales en Honduras, incluida la libre asociación. Sin embargo se muestra muy preocupado por el alto nivel de impunidad que prevalece respecto a las agresiones y violaciones de los derechos de los defensores y defensoras, incluyendo asesinatos y atentados contra la vida. El Relator Especial exhorta a las autoridades a que tomen las medidas necesarias para que estos actos sean investigados de forma pronta y adecuada, que los culpables respondan ante la justicia y que las víctimas obtengan reparación adecuada, en particular, en casos en los cuales la policía, u otros agentes estatales, resultan involucrados. Recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por Honduras el 25 de agosto de 1997.

Grupos sometidos a mayores riesgos

158. Con respecto a las alegaciones que denuncian casos de violencia e inseguridad contra miembros de comunidades indígenas (HND 2/2014) o contra personas en razón de su orientación sexual e identidad de género (HND 8/2014), el Relator Especial invita al Gobierno de Honduras a referirse a los instrumentos legislativos internacionales que señalan medidas y principios concretos que los Estados deben adoptar para lograr la no discriminación y la igualdad; entre otros, la Declaración de las Naciones Unidas sobre los derechos de los pueblos indígenas que exhorta a los Estados a combatir los prejuicios, eliminar la discriminación y promover la tolerancia, la comprensión y las buenas relaciones entre los pueblos indígenas y todos los demás sectores de la sociedad, y el informe del Alto Comisionado de las Naciones Unidas para los Derechos Humanos que solicita a los Estados proteger a las personas frente a la violencia homófoba y transfóbica, prevenir la tortura y los tratos crueles, inhumanos y degradantes motivados por la orientación sexual y la identidad de género y prohibir también la discriminación por esos motivos, revocar las leyes que tipifiquen como delito la homosexualidad, salvaguardar las libertades de expresión, de asociación, y de reunión pacífica para las personas LGBTI y reconocer sus derechos a disfrutar o ejercer, en pie de igualdad con los demás, todos los derechos humanos y las libertades fundamentales (A/HRC/19/41).

Visita de país

159. El Relator Especial agradece la invitación extendida a su mandato el 9 de enero de 2013, pero lamenta no haber recibido una respuesta a su reciente proposición de fechas, según correo del 8 de abril de 2015. Confía en que el Gobierno de Honduras le cursará prontamente nuevas proposiciones factibles para una visita en un futuro cercano.

Mexico

160. JUA 17/07/2014. Case no: MEX 10/2014. State reply: 05/11/2014. Presunta detención y actos de tortura e intimidación de dos defensores de derechos humanos trabajando en contextos de mega-proyectos en México.

161. JAL 10/06/2014. Case no: MEX 9/2014. State reply: 05/09/2014. Presuntos actos de intimidación y represalias contra un defensor de derechos humanos en el Estado de Tamaulipas

162. JAL 23/05/2014. Case no: MEX 8/2014. State reply: 25/08/2014. Presunta falta de avance en la investigación y falta de ejecución de decisiones judiciales con relación a los asesinatos de dos defensores de derechos humanos en Oaxaca.

163. JUA 20/05/2014. Case no: MEX 7/2014. State reply: 24/10/2014. Presuntos actos de violencia, detención, desprestigio, hostigamiento y tortura en contra de una abogada, así como la judicialización y la criminalización de sus actividades en defensa de los derechos humanos.

164. JUA 22/04/2014. Case no: MEX 3/2014. State reply: 04/09/2014. Presunta detención arbitraria y tortura de un defensor de derechos humanos.

165. JUA 25/03/2014. Case no: MEX 2/2014. State reply: 06/07/2014. Presuntas amenazas de muerte, detenciones y agresiones contra integrantes de la Unión Cívica Democrática de Barrios Colonias y Comunidades (UCIDEBACC).

Observaciones

Respuestas a comunicaciones

166. El Relator Especial agradece al Gobierno de México las respuestas detalladas a todas las comunicaciones enviadas durante el período del presente informe. Considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los Gobiernos con su mandato de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. En este sentido, se congratula del compromiso adoptado por las autoridades mexicanas. A su vez, toma nota de los esfuerzos para garantizar que los derechos de libertad de asociación y de reunión pacífica sean respectados.

Situación del entorno

167. Respecto de la información recibida relativa al presunto entorno crecientemente restrictivo para el ejercicio de estos derechos, en particular para los defensores y defensoras de derechos humanos que trabajan en contextos de megaproyectos, el Relator Especial recuerda que un ambiente resolutamente positivo que permita y promueva los derechos de todas las personas de reunirse y de asociarse es esencial en contextos de explotación de recursos naturales para asegurar un proceso justo, transparente y responsable que beneficie a los residentes (A/HRC/29/25, párrafo 67). El Relator Especial se congratula de la existencia en México desde el año 2012 de un Mecanismo Nacional de Protección para Personas Defensoras de Derechos Humanos y Periodistas, encargado de velar por la protección de las personas defensoras de los derechos humanos. Sin embargo, permanece seriamente preocupado por alegaciones de asesinatos, torturas, detenciones arbitrarias y criminalización de manifestantes, miembros de asociaciones trabajando para la defensa de comunidades indígenas y campesinos, así como la presunta impunidad que prevalece respecto a estas agresiones y violaciones.

Alegaciones de represalias

168. El Relator Especial se inquieta gravemente por las alegaciones de actos de represalias bajo la forma de intimidaciones contra el directivo de una asociación de derechos humanos con motivo de su colaboración con el Relator Especial de las Naciones Unidas sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, durante la visita del experto a México a fines de abril de 2014. En este contexto, el Relator toma nota de la respuesta del Gobierno en donde se aclaran las investigaciones iniciadas para determinar la posible existencia de algún delito y las medidas cautelares puestas a favor de la supuesta víctima. Por otro lado, solicita al Gobierno mantenerlo informado de la situación actual de las investigaciones, diligencias judiciales y planes de protección para garantizar los derechos de los defensores y defensoras de derechos humanos en México, así como los logros y avances del Mecanismo Nacional de Protección para personas defensoras de derechos humanos y periodistas. El Relator Especial recuerda la obligación positiva de los Estados Partes del Pacto Internacional de Derechos Civiles y Políticos de garantizar la protección de los derechos contenidos en dicho Pacto contra violaciones por sus agentes y por personas o entidades privadas, la cual incluye el deber de adoptar las medidas adecuadas para prevenir, investigar, juzgar y sancionar a los responsables, y reparar el daño causado (CCPR/C/21/Rev.1/Add.13, párrafos 8 y 18). A su vez, advierte contra los entornos que puedan obstaculizar gravemente el disfrute de esos derechos (A/HRC/20/27, párrafo 20).

Nicaragua

169. JAL 23/02/2015. Case no: NIC 1/2015. State reply: None. Alegaciones de disolución de asambleas pacíficas con uso excesivo de fuerza y detención arbitraria de manifestantes acusados de delitos de terrorismo y exposición de personas al peligro, en el marco de protestas pacíficas contra la construcción del canal interoceánico en Nicaragua.

Observaciones

Respuestas a comunicaciones

170. El Relator Especial lamenta no haber recibido una respuesta a su comunicación y reitera considerar las respuestas a sus comunicaciones como un componente esencial de la cooperación de los Gobiernos con su mandato, según resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. Por consiguiente, insta a las autoridades a proporcionar respuestas detalladas a todas las inquietudes planteadas en su comunicación lo antes posible.

Consideraciones de seguridad

171. El Relator Especial lamenta no haber recibido una respuesta a su comunicación y reitera considerar las respuestas a sus comunicaciones como un componente esencial de la cooperación de los Gobiernos con su mandato. Por consiguiente, insta a las autoridades a proporcionar respuestas detalladas a todas las inquietudes planteadas en su comunicación lo antes posible. En el presente reporte, reitera suma preocupación por las alegaciones de dispersión violenta y criminalización de reuniones pacíficas, así como por reportes que señalan una interpretación arbitraria de los motivos de restricción del derecho de reunión pacífica y recurso abusivo a la lucha legítima contra el terrorismo y otras consideraciones de seguridad para invalidar este derecho.

172. El Relator Especial recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de reunión pacífica; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, al cual Nicaragua accedió el 12 de

marzo de 1980. Reitera, a su vez, que según este mismo Pacto, sólo podrán en contadas excepciones aplicarse ciertas restricciones al derecho de reunión, las cuales deberán ser proporcionales a la consecución de legítimos objetivos y obedecer estrictamente a intereses de seguridad nacional, integridad de la población, orden público, protección de la salud o moral públicas, o de protección de los derechos y libertades de los demás, además de estar prescritas por ley y ser necesarias en una sociedad democrática, es decir de existir una necesidad social acuciante para una injerencia.

173. El Relator Especial le preocupa que se utilicen consideraciones de seguridad para invalidar el derecho de reunión pacífica. Recuerda que los Estados no deberían recurrir a prácticas derogativas en el ámbito de este derecho para luchar eficazmente contra el terrorismo (A/HRC/20/27, párrafo 21). Con respecto al contexto en el que se registraron las supuestas violaciones al derecho de reunión en Nicaragua, motivo de su comunicación del 23 de febrero de 2015 (NIC 1/2015), la construcción del canal interoceánico, también reitera que, en su opinión experta, un ambiente resolutamente positivo que permita y promueva los derechos de todas las personas de reunirse y de asociarse es particularmente esencial para asegurar un proceso justo, transparente y responsable que beneficie a todos los actores afectados (A/HRC/29/25, párrafo 67).

Uso de la fuerza

174. Ante las alegaciones de disolución de reuniones pacíficas con uso excesivo a la fuerza, el Relator Especial hace nuevamente hincapié en el hecho de que la obligación de los Estados es la de proteger activamente y promover la celebración de reuniones pacíficas y para ello debe existir una presunción favorable del rol indispensable que aquéllas desempeñan en las sociedades democráticas. El uso de la fuerza debe por consiguiente ser excepcional, proporcional y limitarse a lo estrictamente necesario para la prevención de un delito y no podrá usarse la fuerza en la medida en que exceda estos límites (Código de Conducta para Funcionarios Encargados de Hacer Cumplir la Ley, artículo 3).

175. El Relator Especial aprovecha esta ocasión para recordar a las autoridades el compromiso asumido por el Estado durante el segundo ciclo del examen periódico universal en abril de 2014, en el cual aceptó, entre otros, proteger el derecho de reunión y garantizar investigaciones prontas y transparentes de abusos cometidos por las fuerzas de seguridad (A/HRC/27/16, párrafo 114.91).

United States of America (the)

176. JUA 08/12/2014. Case no: USA 19/2014. State reply: 16/04/2015. Alleged arrests and criminal proceedings against human rights defenders exercising their right to peaceful assembly in relation to the right to safe drinking water and sanitation.

177. JAL 24/11/2014. Case no: USA 17/2014. State reply: None. Alleged non-compliance with international human rights law and standards of proposed amendments to the Rules of the House of Representatives of the United States governing disclosure of funding received by non-governmental organizations from foreign Governments.

178. JAL 28/08/2014. Case no: USA 14/2014. State reply: 22/10/2014. Allegations of the killing of a young African-American man, and of the subsequent excessive use of force and acts of intimidation against demonstrators and journalists in the city of Ferguson, Missouri.

179. PR 05/12/2014. ""Legitimate concerns" over outcome of Michael Brown and Eric Garner cases – UN rights experts"

Observations

Responses to communications

180. The Special Rapporteur expresses his thanks to the Government of the United States for its reply to two communications sent during the period under consideration. He regrets that one communication did not receive a reply to date and he recalls that responses to his communications are an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolution 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Right to peaceful protest in the context of economic, social and cultural rights

181. In relation to the reported arrest of peaceful protestors by the Detroit Police Department for allegedly preventing Homrich Wrecking Inc, a contractor of the City of Detroit Water and Sewer Department, from restoring water service to residential consumers, the Special Rapporteur looks forward to receiving the report on the final disposition of charges against the protestors, as soon as possible. He notes the Government's response indicating that the Detroit Police Department reportedly informed protestors of the procedures for conducting a lawful protest. However, he reaffirms that while assemblies can be subject to certain restrictions, which are prescribed by law and are necessary in a democratic society, as stated in the International Covenant on Civil and Political Rights there should continuously be a presumption in favour of holding peaceful assemblies.

Draft Resolution to amend the rules of the House of Representatives relating to funding disclosures

182. The Special Rapporteur reiterates his concerns regarding the alleged submission of a resolution to the second session of the 113th Congress, on 15 September 2014, to amend a clause in the Rules of the House of Representatives to require witnesses that appear in a non-government capacity to also include a disclosure of the amount and source of any money received from foreign Governments. He recalls that civil society actors have been facing increased scrutiny and undue restrictions in relation to funding they received and that the requirement to reveal foreign funding sources could stigmatize civil society organizations and human rights defenders, as well as deter them from seeking resources to undertake their activities. The Special Rapporteur reminds the Government of its obligation to ensure that civil society, including human rights defenders, in the United States can carry out their legitimate work free from undue restrictions.

Mass assemblies in response to high profile events

183. In the case of the mass demonstrations that occurred in Ferguson, Missouri, calling for an independent and transparent investigation into the killing of Mr. Brown, which were allegedly met with excessive use of force and acts of intimidation against protestors, the Special Rapporteur stressed that the State has a positive obligation to actively protect peaceful assemblies and to ensure, in particular, that all individuals belonging to groups most at risk, including racial and ethnic minorites, have the ability to exercise effectively their right. This obligation includes the protection of participants of peaceful assemblies from individuals or groups of individuals who aim at disrupting or dispersing such assemblies. He also recalls the recommendations of the Human Rights Committee that called upon the United States of America to "(a) Step up its efforts to prevent the excessive use of force by law enforcement officers by ensuring compliance with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; (b) Ensure that the new CBP directive on the use of deadly force is applied and enforced in practice; and

(c) Improve reporting of violations involving the excessive use of force and ensure that reported cases of excessive use of force are effectively investigated; that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; that investigations are re-opened when new evidence becomes available; and that victims or their families are provided with adequate compensation (CCPR/C/USA/CO/4, paragraph 11).

184. He notes with appreciation the creation of a voluntary initiative (a Collaborative Reform Initiative with the St. Louis County Police Department - SLCPD) to undertake a voluntary assessment of the handling of mass demonstrations as well as other inquiries. He further awaits the results of the several different investigations and legal actions mentioned in this case, particularly in view of the decision of St. Louis County grand jury to not bring to trial the case of Michael Brown. The Special Rapporteur repeats his serious concern over the allegations of excessive use of force against peaceful demonstrators and various acts of intimidation, including arbitrary arrests, against protestors exercising the rights to expression and assembly and journalists covering the demonstrations. In all contexts, he urges the police to facilitate the right of protestors to demonstrate peacefully and to refrain from the use of excessive force against individuals, including journalists, exercising their rights. The Special Rapporteur recalls Human Rights Council resolution 25/38 which further urges States to avoid using force during peaceful protests and to safeguard that no one is subject to excessive or indiscriminate use of force, where the use of force is absolutely necessary. Moreover, he calls on the State to take all necessary steps to secure the rights to freedom of peaceful assembly as per article 21 of the International Covenant on Civil and Political Rights.

Country visit

185. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to the United States, as indicated in his last letter on 2 April 2015. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He views that such a visit would be a timely opportunity to engage with the relevant authorities over the management of peaceful assemblies and contribute to the provision of technical assistance or advisory services. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

Venezuela (Bolivarian Republic of)

186. JAL 20/02/2015. Case no: VEN 1/2015. State reply: 22/04/2015. Alegaciones relativas a las disposiciones de la resolución ministerial 008610, las cuales limitarían de forma desproporcionada e innecesaria el ejercicio del derecho a la libertad de reunión pacífica y el derecho a la libertad de expresión.

187. JAL 03/10/2014. Case no: VEN 7/2014. State reply: 07/10/2014. Presunta comparecencia ante el Ministerio Público del director de una organización no gubernamental y declaraciones públicas contrarias a la presunción de inocencia.

188. JAL 07/08/2014. Case no: VEN 6/2014. State reply: None. Alegaciones de condiciones de aislamiento solitario prolongado contra líder de un partido político opositor.

189. JUA 27/06/2014. Case no: VEN 5/2014. State reply: None. Presunta criminalización y detención de un miembro de un partido político opositor que trabaja en el área de lucha contra la discriminación y por los derechos de las personas LGBTI.

190. JUA 16/05/2014. Case no: VEN 4/2014. State reply: 04/06/2014; 04/06/2014; 04/06/2014. Presunto desalojo violento de manifestaciones estudiantiles; detención y posterior liberación del director de la asociación Un Mundo sin Mordaza, así como actos de hostigamiento, seguimiento y amenazas contra miembros de la asociación Foro Penal Venezolano.

191. JUA 03/03/2014. Case no: VEN 1/2014. State reply: 28/04/2014; 28/04/2014; 28/04/2014; 28/04/2014; 03/04/2014. Alegaciones de violaciones graves de los derechos humanos durante protestas.

192. PR 06/03/2014. Venezuela / Manifestaciones: Expertos de la ONU piden aclaración sobre supuestas detenciones arbitrarias uso de violencia.

Observaciones

Respuestas a comunicaciones

193. El Relator Especial agradece el Gobierno de la República Bolivariana de Venezuela sus respuestas detalladas con extensivos anexos a sus comunicaciones relativas a las alegaciones de dispersión violenta de las marchas estudiantiles y de partidos políticos de oposición en febrero de 2014 (VEN 4/2014 y VEN 1/2014) y, en ese contexto, del arresto e imputación de cargos del director de la organización no gubernamental de defensa del derecho de expresión, un Mundo sin Mordaza, el Sr. Rodrigo Diamanti (VEN 7/2014 y VEN 4/2014). El Relator Especial las examinó con particular atención. A su vez, El Relator Especial toma nota y agradece la respuesta del Gobierno venezolano a su comunicación del 20 de febrero de 2015 en la cual expresaba grave preocupación por la adopción por parte del Ministerio del Poder Popular para la Defensa de la resolución 00810, titulada "Normas sobre la Actuación de la Fuerza Armada Nacional Bolivariana en Funciones de Control del Orden Público, la Paz Social y la Convivencia Ciudadana en Reuniones Públicas y Manifestaciones" el 23 de enero de 20'5, cuyo texto incluiría disposiciones que limitarían indebidamente derechos fundamentales, incluido el derecho a la libertad de reunión pacífica, al asimilar los movimientos de protesta pacíficos a amenazas al orden público y otorgar amplios poderes a las fuerzas de seguridad para disolver asambleas. Señala que su comunicación se enmarca en un diálogo previo con las autoridades acerca del supuesto uso excesivo de la fuerza por agentes de seguridad.

194. No obstante, lamenta no haber recibido una respuesta sus otras dos comunicaciones enviadas en el período del presente reporte. En este sentido, recuerda al Estado que considera aquellas respuestas como un componente esencial de la cooperación de los Gobiernos con su mandato, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación del entorno

195. Con respecto al alto volumen de reportes que indican alarmantes violaciones a los derechos de reunión pacífica y de asociación, el Relator Especial advierte contra los entornos que puedan obstaculizar gravemente el disfrute de estos derechos y recuerda al Gobierno de la República Bolivariana de Venezuela su obligación de proteger activamente las reuniones pacíficas (A/HRC/20/27, párrafo 33) y asegurar que las personas que ejercen el derecho a la libertad de asociación puedan actuar libremente, sin temor a posibles amenazas, actos de intimidación o violencia, como arrestos o detenciones arbitrarios o campañas difamatorias en los medios de difusión (A/HRC/20/27, párrafo 63); ambos derechos consagrados en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por el país el 10 de mayo de 1978. Reitera, a su vez, que según este mismo Pacto, sólo podrán en contadas excepciones aplicarse ciertas restricciones al derecho de reunión, las cuales deberán ser proporcionales a la consecución de legítimos objetivos y obedecer

estrictamente a intereses de seguridad nacional, integridad de la población, orden público, protección de la salud o moral públicas, o de protección de los derechos y libertades de los demás, además de estar prescritas por ley y ser necesarias en una sociedad democrática, es decir de existir una necesidad social acuciante para una injerencia. En este contexto, una de las condiciones a las que la Constitución del país sujeta el derecho de manifestación, a saber, que cumpla los requisitos previstos en la ley, sólo será válida si aquellos requisitos se ajustan a las obligaciones internacionales contraídas por el país. Asimismo, el Relator Especial advierte contra el uso de conceptos vagos e imprecisos como los de "ética pública" y "moral administrativa" que permiten interpretaciones arbitrarias y el recorte de derechos fundamentales. También recuerda que el hecho de entorpecer la circulación con acciones tales como bloqueos de calles no constituye un motivo válido para dispersar una protesta. Hace referencia a la Observación no. 31 del Comité de los Derechos Humanos sobre la índole de la obligación jurídica general impuesta a los Estados partes en el Pacto Internacional de Derechos Civiles y Políticos, en la que se establece que los Estados deben demostrar la necesidad de las restricciones y adoptar únicamente las medidas que resulten proporcionales a la consecución de los legítimos objetivos para lograr una protección constante y eficaz de los derechos del Pacto.

Movilización "La salida"

196. El Relator Especial lamenta que las autoridades venezolanas no reconozcan a la movilización conocida como "La salida" del 12 de febrero de 2014 como una auténtica manifestación pacífica de sectores críticos de la población. Insiste en que si bien el Gobierno puede no estar de acuerdo con las opiniones y críticas expresadas por personas que abrazan convicciones o creencias disidentes, tiene la obligación positiva de asegurar la existencia de un entorno propicio para la sociedad civil, en términos de disfrute de los derechos de reunión pacífica y de asociación, para que aquélla pueda existir, operar y expresarse pacíficamente sin ningún temor. De esta forma, también es responsabilidad de los Estados diferenciar dentro de una congregación intencional y temporal de personas aquéllas conductas constitutivas de delito y proteger a los participantes de estos actos. (A/HRC/20/27, párrafo 33). Recomienda al Gobierno establecer de manera clara y explícita una presunción favorable a la celebración de reuniones pacíficas en su legislación.

Consideraciones de seguridad

197. Con respecto a los arrestos masivos llevados a cabo en el marco de los eventos de febrero de 2014 y según información proporcionada por el Gobierno, incluido datos estadísticos en relación con los manifestantes detenidos y la legalidad de su detención, el Relator Especial expresa grave preocupación por el recurso a la Ley Orgánica contra la Delincuencia Organizada y Financiamiento al Terrorismo (ley anti-terrorista) para justificar todas las detenciones y la categorización de los manifestantes como 'terroristas', negando su carácter de estudiantes, opositores políticos o defensores y defensoras de los derechos humanos legítimos. Como expresado en ocasiones anteriores, al Relator Especial le preocupa que se utilicen extensamente consideraciones de seguridad para invalidar los derechos de reunión pacífica y de asociación. Recuerda la opinión del Comité de los Derechos Humanos, en su Observación no. 29, relativa a la suspensión de obligaciones durante un estado de excepción, según la cual, en el ámbito de las libertades de reunión pacífica y asociación, son suficientes las medidas recogidas en el Pacto Internacional de Derechos Civiles y Políticos y consideraciones de seguridad no justifican medidas de derogación.

Uso de la fuerza y adopción de la resolución ministerial 008610

198. Según la información proporcionada por el Gobierno en su respuesta del 22 de abril de 2015 (VEN 1/2015), el Sistema de Seguridad de la Nación incorpora a la Fuerza Armada

Nacional como cuerpo profesional en el cumplimiento, entre otras atribuciones, del mantenimiento del orden interno. Esta sería una excepción a la regla general que otorga todas las funciones de seguridad ciudadana a los cuerpos de seguridad de carácter civil. Bajo el nuevo modelo policial en proceso de configuración, el Gobierno enfatiza que no le corresponden funciones generales de seguridad ciudadana al sector militar, pero sí atribuciones específicas en el mantenimiento del orden interno "ante la eventualidad de manifestaciones violentas", cuyo alcance buscaría limitar la resolución ministerial 008610 sobre "Normas sobre la Actuación de la Fuerza Armada Nacional Bolivariana en Funciones de Control del Orden Público, la Paz Social y la Convivencia Ciudadana en Reuniones Públicas y Manifestaciones". El Relator Especial se congratula por el compromiso de las autoridades de desarrollar un nuevo modelo policial conforme a estándares internacionales. No obstante, refuta los argumentos esgrimidos por el Gobierno de que efectivos militares, como la Guardia Nacional Bolivariana, sean el medio adecuado para el control de las manifestaciones en situaciones que no constituyen estados de emergencia. Hace nuevamente hincapié en el hecho de que la obligación de los Estados es la de proteger activamente y promover la celebración de reuniones pacíficas y para ello debe existir una presunción favorable del rol indispensable que aquéllas desempeñan en las sociedades democráticas. Tal como expresó el Comité contra la Tortura durante su examen de la República Bolivariana de Venezuela, el 12 de diciembre de 2014, al Relator Especial le preocupa seriamente el recurso a un organismo que fue objeto de 121 denuncias por excesos en el ejercicio de sus funciones en las manifestaciones ocurridas entre febrero y junio de 2014 y urge a las autoridades asegurar que sean órganos civiles los encargados del mantenimiento del orden público. Asimismo, no le convencen los argumentos de que la resolución ministerial 008610 provee una definición más clara y precisa de las normas de actuación de Guardia Nacional, por cuanto referencias tales como: le compete a la Fuerza Armada Nacional Bolivariana la "evaluación de la situación... considerando... el número de persona su actitud, las personas que se identifican como representantes, el motivo o finalidad de la reunión..." difícilmente limita, sino más bien, incrementa, en su opinión, los riesgos de interpretaciones arbitrarias de la norma. Expresa la misma opinión en relación a la calificación de "violencia pacífica" que no parece ser otra cosa que la asimilación de la resistencia pacífica a un acto violento. El hecho de que otras normas internas, incluidas la Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional Bolivariana y la Resolución 88 del Ministerio del Poder Popular para Relaciones Interiores, Justicia y Paz de 2010, reflejen conceptos similares no les quita ambigüedad. En este sentido, al Relator Especial le preocupa seriamente que este tipo de normativas imprecisas conlleven a la autocensura, una de las prácticas sociales más regresivas para el goce de derechos y libertades fundamentales.

199. Teniendo en cuenta lo anterior, el Relator Especial reitera sus serias inquietudes con respecto a la supuesta falta de diferenciación entre reuniones pacíficas y actos violentos que por tanto podrían justificar el uso gradual y progresivo de la fuerza por parte de la Fuerza Armada Nacional Bolivariana para dispersar reuniones pacíficas, en flagrante oposición con las disposiciones del derecho internacional y las obligaciones que el país se comprometió a respetar y garantizar. Por lo tanto, urge al Estado realizar las modificaciones necesarias a la luz de las normas y estándares internacionales y pone a su disposición sus servicios de asesoramiento y asistencia técnica.

Oposición política

200. El Relator Especial confía en que el Gobierno responderá en la brevedad a las pendientes comunicaciones acerca de la supuesta detención de un defensor de las personas LGBTI del partido político opositor Voluntad Popular, el Sr. Rosmit Mantilla, en mayo de 2014 (VEN 5/2014), y el alegado aislamiento solitario prolongado del líder de este partido, el Sr. Leopoldo López Mendoza, en las instalaciones militares de Ramo Verde en febrero

de 2014 (VEN 6/2014). Asimismo, reitera las serias inquietudes formuladas en sus comunicaciones con respecto, respetivamente, a las alegaciones de hostigamiento contra y criminalización de opositores políticos, y presunta detención en dependencias militares, agresiones por parte del personal de seguridad y aislamiento solitario prolongado del Sr. Leopoldo López Mendoza. Recuerda que los derechos de reunión pacífica y de asociación son fundamentales para la plena participación de las personas en los asuntos públicos y una buena gobernanza (A/68/299, párrafo 6) y hace nuevamente hincapié en el papel de las asociaciones en general, y los partidos políticos en particular, como medios clave para el funcionamiento de un régimen democrático. El Relator Especial insta a la República Bolivariana de Venezuela a que reconozca que los derechos a la libertad de reunión pacífica y de asociación desempeñan un papel primordial en la democracia y asegure que nadie sea criminalizado, violentado ni intimidado por ejercer estos derechos.

Visita de país

201. El Relator Especial confía en que el Gobierno de la República Bolivariana de Venezuela responderá favorablemente a sus solicitudes de visita hechas en 2011 y 2013. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sur solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

V. Asia-Pacific region

202. The Special Rapporteur sent a total of 63 communications to countries in the Asia-Pacific region in the period covered by this report. A total of 20 communications were follow-up communications to cases previously addressed to the attention of the State concerned. He takes note that the response rate is 41 per cent for the Asia-Pacific region.

203. The Special Rapporteur has articulated his surprise at the numerous reports of restrictions and violations of the rights of peaceful assembly and association on the part of human rights defenders, including at worrisome number of alleged reprisals against people who sought to cooperate or cooperated with the United Nations during the period under review. In particular, he is concerned about indication that environmental human rights defenders were the target of threats and violations, including killings, for their peaceful and legitimate work in the defence of human rights, particularly in the context of natural resource exploitation projects. He recalls that a positive environment that allows and promotes the rights of all people to freely associate and assemble is essential in the context of exploitation of natural resources to ensure a fair, transparent and accountable process that benefits all the parties involved (A/HRC/29/25, paragraph 67). He reiterates that in democratic societies, demonstrations and protests represent a central mechanism for raising awareness about political and social concerns, including on environmental, labour or economic issues, to hold both Governments and corporations accountable.

204. The Special Rapporteur calls on States to pay particular attention to the plights of groups at risk. He noted that in this region, groups at high risk of violations, including journalists, trade unionists, environmental activists and indigenous peoples, among others, face considerable opposition, harassment and , stigmatization from State and non-State actors because of their views and human rights activities. He urges the Governments to improve the situations of these often marginalized groups and recalls that the State retains the primary responsibility for ensuring the protection and promotion of their rights. In that this regard, he asked asks that positive measures, including affirmative action initiatives, be taken to ensure that all individuals belonging to groups most at risk have the ability to exercise effectively exercise their rights, including the rights to freedom of peaceful assembly and of association.

205. With regards to extraordinary circumstances and exceptional situations in the region, the Special Rapporteur recalls that even during a state of emergency, the rights to freedom of peaceful assembly and of association shall not be derogated. He notes that the struggle against terrorism and other security considerations have been used as rationale for the adoption of a state of emergency or other stricter rules to nullify the rights to freedom of peaceful assembly and of association. He advocates that when absolutely necessary, limitation measures, as provided for in the International Covenant on Civil and Political Rights, are adequate to combat terrorism or handle other security considerations.

206. In relation to the right to freedom of association, the Special Rapporteur reminds Governments of this region that they must ensure that everyone can peacefully express their views without fear and that Governments have the obligation to not obstruct the exercise of the right to freedom of association. This important responsibility includes guaranteeing that both registered and unregistered associations can seek and secure funding and resources without discrimination (A/HRC/20/27, paragraphs 64 and 68). He notes with concern that the ability of associations in the region to access funding directly affects the right to association. In that regard, he remains worried about laws that halt or curb foreign funding.

Australia

207. JAL 04/09/2014. Case no: AUS 3/2014. State reply: 23/12/2014; 05/11/2014 (response extension request). Alleged undue restrictions on the right to freedom of expression, opinion, and peaceful assembly contained in the draft Workplaces (Protection from Protestors) Bill 2014.

208. PR 04/03/2015. Australia: UN rights expert welcomes Victoria State's moves to repeal restrictive laws on protest

209. PR 09/09/2014. UN experts urge Tasmania to drop its anti-protest bill.

Observations

Responses to communications

210. The Special Rapporteur thanks the Government of Australia for its detailed response to his communication. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Workplaces (Protection from Protestors) Act 2014 (Tasmania)

211. The Special Rapporteur notes the Government's reply to the communication sent on 4 September 2014, indicating that the Workplaces (Protection from Protestors) Bill 2014 (Tasmania) had passed both Houses of the Parliament and thus became an Act of Parliament, with extensive amendments addressing concerns raised in the communication (AUS 3/2014). He takes note with appreciation that the concern about the explicit prohibition of acts that promoted "awareness of or support for an opinion, or belief, in respect of a political, environmental, social, cultural or economic issue" was removed from the Act and that penalties for invading or hindering businesses were largely reviewed. However, he remains concerned about the other provisions, namely Part 2, clauses 6.1, 6.2 and 6.3 on prohibitions to demonstrate, clauses 8 and 9 on police attributions and penalties for not complying or for obstructing a police officer from taking action, and clauses under Part 3 relative to police powers in application of the Act, including arrests without warrants and the use of force. The Special Rapporteur reiterates that in democratic societies, demonstrations and protests represent a central mechanism for raising awareness about

political and social concerns, including on environmental, labour or economic issues, holding not only governments, but also corporations accountable. As stated in the communication, he believes that the Act impedes that very function and urges the authorities to take the necessary steps to make its legislation compliant with Australia's international obligations, namely the article 21 on freedom of association of the International Covenant on Civil and Political Rights, ratified by the State on 13 August 1980.

Security considerations in the context of projects relating to natural resource exploitation

212. The Special Rapporteur takes note of the meaning of a business premise for the purposes of the Workplaces (Protection from Protestors) Act 2014 (Tasmania), which includes mining sites, forestry lands and premises used for agriculture, horticulture, viticulture, aquaculture and commercial food, among others. With this definition in mind, he warns against the practice of restricting the right to protest in these specific contexts, which he believes may be costly in the long run and may cause irrevocable damage (A/HRC/29/25, paragraph 11). The Special Rapporteur stresses the view that this right contributes to opening up opportunities for genuine and effective engagement by civil society in decision-making processes across the spectrum of natural resource exploitation activities. The right to freedom of peaceful assembly in natural resources exploitation contexts facilitates constructive dialogue, fosters transparency and accountability and allows excluded groups to voice their grievances, hence requiring specific attention and protection according to international laws and standards. In particular, the United Nations Declaration on the Rights of Indigenous People provides inter alia for the right of indigenous peoples to free, prior and informed consent if they are relocated from their lands or territories (A/RES/61/295, article 10). The Special Rapporteur encourages the State to overturn any legislation that curtails the right to freedom of peaceful assembly. Moreover, he articulates that there should be a presumption in favour of holding peaceful assemblies and associating freely and that security considerations should not be used as a justification for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and of association. He reminds that in a democratic society, no restrictions may be placed on the exercise of these rights unless strictly necessary and proportionate to the interest to be protected.

Move-on laws

213. The Special Rapporteur welcomes the decision of the Victoria State's government to introduce a bill in the lower House of Parliament in March 2015 to repeal restrictive laws regulating protests. He notes with appreciation that the Victoria State's Government repealed in April 2014 the amendments to the controversial "move-on laws" which, in his opinion, granted police extensive powers to move protestors obstructing buildings of traffic or "causing people to have a reasonable fear of violence", and looks forward to receiving information on the outcome regarding to the 2014 law reviewing Victoria's Summary Offenses Act, which, in his view, imposes harsh penalties on offenders.

Bangladesh

214. JAL 30/09/2014. Case no: BGD 6/2014. State reply: None. Alleged physical attacks, arrests and detention of trade union leaders and other human rights defenders.

215. JAL 23/07/2014. Case no: BGD 4/2014. State reply: 31/07/2014 (acknowledgment). Alleged attack on members of the International Chittagong Hill Tracts Commission in Rangamati district, Chittagong Hill Tracts.

216. JAL 02/07/2014. Case no: BGD 3/2014. State reply: 08/07/2014 (acknowledgment). Alleged undue restrictions of the right to freedom of association contained in the latest version of the draft Foreign Donations (Voluntary Activities) Regulation Act 2014.

217. JAL 25/03/2014. Case no: BGD 2/2014. State reply: None. Allegations of harassment, intimidation and surveillance of human rights defenders and persons associated with them, and alleged undue restrictions on the right to freedom of association.

Observations

Responses to communications

218. The Special Rapporteur takes note of the responses of the Government of Bangladesh acknowledging receipt of his communications. However, he regrets that the Government failed to provide substantial responses to the questions raised in the communications since the establishment of the mandate in 2011. He considers responses to his communications as an important part of the cooperation of Governments with his mandate and again urges the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) on the rights to freedom of peaceful assembly and association that call upon States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

Trade unions

219. The Special Rapporteur reiterates his concerns regarding the alleged physical attacks and undue arrests of trade union leaders and other human rights defenders participating in a protest at the Hossain Market in Dhaka in July 2014. He reminds the Government of its obligation to ensure that trade unions leaders and human rights defenders in Bangladesh can carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, including excessive use of force. He calls on the Government to conduct independent and thorough investigations into allegations of human rights violations, to hold perpetrators accountable and to provide the victims with full redress, without further due. Moreover, he urges the State to take all necessary steps to secure the rights to freedom of peaceful assembly and association as per articles 21 and 22 of the International Covenant on Civil and Political Rights acceded by Bangladesh on 6 September 2000.

Draft Foreign Donations (Voluntary Activities) Regulation Act 2014

220. While the Special Rapporteur awaits a reply from the Government of Bangladesh detailing the current status of this Act, which was reportedly expected to be reviewed by the Parliament in mid-2014, he reiterates his call for the Parliament to ensure its compliance with international human rights norms and standards. He reiterates that States must ensure that associations, irrespective of whether registered or unregistered, can seek, receive and use funding and other resources from natural and legal individuals or groups, whether domestic, foreign or international, without prior authorization or other undue impediments (A/HRC/23/39, paragraph 82). Regarding provisions on registration renewals, the Special Rapporteur restates that the regular application for renewal infringes the limited restrictions set forth in article 22 of the International Covenant on Civil and Political Rights and recalled in resolution 24/5 of the Human Rights Council. He also calls upon Bangladesh to refrain from interfering with the right of associations to freely determine their activities and thus to overturn laws and provisions that make it mandatory for associations to request the

approval of a Government ministry to carry out their legitimate activities. Moreover, the Special Rapporteur remains very concerned by vague or ambiguous provisions of the Draft Foreign Donations (Voluntary Activities) Regulation Act 2014 that allow for arbitrary interpretations and restrictions to the right to associate. He believes that the risk of violating the right to association is even greater if the laws governing it are vague since citizens' fears of breaking the law itself can lead to self-silencing.

Environment in which these rights are exercised

221. The Special Rapporteur reiterates his grave concern at the acts of intimidation and harassment and of the secretary of Bangladeshi human rights organization ODHIKAR, Mr. Adilur Rahman Khan. As previously noted, he articulates that there should be a presumption in favour of assembling peacefully and associating freely and that security considerations should not be used as a justification for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and association. In the Special Rapporteur's view, surveillance tactics and disproportionate shows of force attest to authorities' presumptions against assembling and associating freely, which has a chilling effect on peaceful protestors. He reminds the Government that no restrictions may be placed on the exercise of those rights in a democractic society other than those that are strictly necessary and proportionate to the interest to be protected.

Country visit

222. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Bangladesh, as indicated by letter on 27 January 2014. He trusts that such an in person visit would allow him to examine issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

Cambodia

223. JUA 22/08/2014. Case no: KHM 5/2014. State reply: None. Allegations concerning the expropriation of land of community members of villages in Ta Ches commune, judicial harassment, intimidation committed against them as well as the denial of access to justice and the resolution of their claims.

224. JAL 20/05/2014. Case no: KHM 3/2014. State reply: 28/08/2014. Alleged acts of intimidation and threats against the Project Coordinator of the Land Reform Project at the Cambodian Centre for Human Rights (CCHR).

Observations

Responses to communications

225. The Special Rapporteur thanks the Government of Cambodia for its response dated 28 August 2014, which provided information on the investigation into the reported acts of intimidation and threats against human rights defender Mr. Vann Sophath. He trusts he will soon receive a response to the questions raised in the communication on 22 August 2014, in conformity with the requirement of Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) to fully cooperate with the mandate.

Environment in which these rights are exercised

226. In relation to the contested appropriation of land, the Special Rapporteur remains seriously concerned about the reported recurring resort to violence and intimidation against human rights defenders and residents by the company security agents with the knowledge of the police. He is similarly concerned about the violent dispersal of peaceful assemblies and criminalization of protestors at Or Rung village, Ta Che commune in August 2014. He calls on the authorities to keep him informed on the charges brought against land activists arrested on 12 August 2014 and to indicate how their arrests and any consecutive measures are compatible with international human rights law and standards.

227. The Special Rapporteur articulates that there should be a presumption in favour of holding peaceful assemblies and associating freely and that security considerations should not be used as a justification for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and of association. No restrictions may be placed on the exercise of those rights other than those that are strictly necessary in a democratic society and proportionate to the interest to be protected. While the Special Rapporteur welcomes the statement of the Cambodian delegation present in Geneva during the review of the State at the Universal Periodic Review that stressed the important role of associations in the promotion of democracy and human rights (A/HRC/26/6, paragraph 17), he urges the authorities to take the necessary steps to promote and protect the rights set forth in the International Covenant on Civil and Political Rights, namely the articles 21 and 22 on freedoms of assembly and association, ratified by the State on 26 May 1992. He also takes this opportunity to recall the observations of the Human Rights Committee that call upon the State to, i ter alia, "refrain from prosecuting journalists, human rights defenders and other civil society actors as a means of deterring or discouraging them from freely expressing their opinions" and to "ensure that the exercise of the right to peaceful assembly is not subject to restrictions other than the ones permissible under the Covenant" (CCPR/C/KHM/CO/2, paragraphs 21b and 22).

Country visit

228. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Cambodia, as indicated by letters on 23 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine in situ issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

China

229. JAL 05/12/2014. Case no: CHN 11/2014. State reply: 11/03/2015. Alleged arrest, detention and prosecution of individuals for participating or supporting peaceful demonstrations in Hong Kong; acts of violence against demonstrators perpetrated by the police and by anti-protest groups; and restrictions to the dissemination and access to information, including on the Internet.

230. JUA 17/11/2014. Case no: CHN 12/2014. State reply: None. Alleged arrest, detention and conviction of a human rights defender and harassment of his family.

231. JUA 30/10/2014. Case no: CHN 10/2014. State reply: 08/12/2014. Alleged sentencing of a human rights activist to six and a half years imprisonment, ill-treatment and denial of medical treatment in detention.

232. JUA 23/10/2014. Case no: CHN 9/2014. State reply: None. Alleged arbitrary and incommunicado detention, and disappearance of a human rights defender.

233. JUA 09/09/2014. Case no: CHN 8/2014. State reply: 14/10/2014. Alleged arrest, detention and interrogation of human rights defenders in China.

234. JUA 16/07/2014. Case no: CHN 7/2014. State reply: 20/08/2014. Allegations of arrest, detention and harassment of human rights lawyers and activists surrounding the 25th anniversary of the Tiananmen Square protests.

235. JUA 05/05/2014. Case no: CHN 6/2014. State reply: None. Allegations of arrest and ill-treatment in detention of a human rights defender. According to the information received, Ms. Ge Zhihui participated in a training outside of China about the United Nations human rights mechanisms in early 2014.

236. JUA 08/04/2014. Case no: CHN 5/2014. State reply: 19/06/2014. Allegations of ongoing arbitrary detention and prolonged solitary confinement of a pro-democracy activist and his deteriorating health while in detention.

237. JAL 03/04/2014. Case no: CHN 4/2014. State reply: None. Allegations of intimidation and reprisals against the daughter of a pro-democracy activist prior to the scheduled adoption of the report of the second Universal Periodic Review of the People's Republic of China.

238. JUA 04/03/2014. Case no: CHN 2/2014. State reply: None. Alleged denial of medical treatment while in detention of a human rights defender.

239. PR 18/03/2014. Deadly reprisals: UN experts deplore the events leading to the death of Chinese human rights defender Ms. Cao Shunli, and ask for full investigation.

Observations

Responses to communications

240. The Special Rapporteur thanks the Government of China for its responses to the communications sent during the present reporting period. However, he regrets not having received replies to the communications sent on 4 March 2014 (CHN 2/2014), 3 April 2014 (CHN 4/2014), 5 May 2014 (CHN 6/2014), 23 October 2014 (CHN 9/2014) and 17 November 2014 (CHN 12/2014). He urges the Government to provide detailed responses to the questions raised in his letters, given the severity of the allegations contain therein. He reminds the authorities that he considers responses to his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Reported reprisals

241. The Special Rapporteur learned with dismay of the death of human rights defender Ms. Cao on 14 March 2014. Ms. Cao had been the subject of several communications by Special Procedures in previous months following successive undue arrests related to her legitimate human rights activities. Her participation in a sit-in in Beijing during which protestors requested Chinese authorities to allow civil society, an officially recognized actor of the Universal Periodic Review mechanism, to input information into the National Report to this body had reportedly motivated her latest arrest in August 2013. A group of United Nations experts, including the Special Rapporteur, had joined their voices to express alarm about the deteriorating health situation of Ms. Cao in a press release on 16 October 2013.

242. The Special Rapporteur reiterates his utmost concern that the death of Ms. Cao may be a reprisal for her continued cooperation with the United Nations, its mechanisms and

representatives in the field of human rights, namely with the Universal Period Review process. He urges the authorities to inform him of the results of the investigations of the circumstances leading to Ms. Cao's death, as soon as possible. He emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 3 of the Universal Declaration of Human Rights.

243. Moreover, he echoes the Human Rights Council resolutions 12/2, 24/24 and 27/38, which condemn all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights.

Environment in which these rights are exercised

244. The Special Rapporteur remains gravely disturbed by allegations of reprisals, repeated arrests, criminalization, harassment of families and disappearance of human rights defenders as a result of their legitimate human rights activities. Moreover, he expresses serious concern at the reported instances of torture and ill-treatment and deteriorating health of human rights defenders in detention. He recalls the decisive role played by associations to foster development and to meet populations' needs and aspirations and the importance to ensure a free and unhampered enjoyment of the right to assembly and protest to build peaceful and democratic societies. To this end, he urges the authorities of China to respect, protect and fulfil the rights to free association and peaceful assembly. In this regard, he recalls the recommendation made by the Committee on the Elimination of Discrimination against Women to enable direct registration of associations without sponsorship (CEDAW/C/CHN/CO/7-8, paragraph 33) and reminds the Government that the right to associate protect both registered and unregistered associations.

Crime of picking quarrels and provoking trouble

245. The Special Rapporteur takes note of the reply of the Government on 8 December 2014 indicating that the Intermediate People's Court of Xin Yu City had sustained the ruling of the People's Court of Yu Shui District condemning human rights defender Ms. Liu Ping to an imprisonment of 6.5 years for the crime of picking quarrels and provoking trouble (CHN 10/2014). The Special Rapporteur acknowledges the Chinese criminal law and other domestic laws and regulations applied by the courts that found Ms. Liu guilty of, among other things, spreading fabricated information on the Internet, stirring trouble and provoking unrest and disturbance of public order. He, however, reminds the State of its commitment to protect and promote rights set forth in international human rights law and standards, which include the rights to peaceful assembly and association. He urges the Government of China to uphold its international human rights commitments and to refrain from passing or implementing laws, as well as validating practices that seriously impede the enjoyment of fundamental rights. In relation to the use of the Internet, the Special Rapporteur call on the authorities to guarantee an unhampered access to the Internet and echoes Human Rights Council resolution 26/13 on the promotion, protection and enjoyment of human rights on the Internet.

246. Similarly, the Special Rapporteur remains concerned about the situation of human rights lawyer Mr. Chang Boyang, detained on 26 May 2014 and charged with the crime of "assembling a crowd to disturb order at public places" (CHN 8 2014). He takes note of the reply of the Chinese Government, and in that regard, looks forward to receiving further information on the outcome of the proceedings and investigations related to the case.

Country visit

247. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to China, as indicated by letters on 23 September 2011 and on 15 November 2013. He trusts that such a visit would allow him to examine in situ issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

India

248. JAL 29/10/2014. Case no: IND 7/2014. State reply: None. Allegations of threats against and surveillance of a human rights defender.

249. JAL 11/04/2014. Case no: IND 3/2014. State reply: None. Allegations of prosecution of a member of an association and a civil rights activist

Observations

Responses to communications

250. The Special Rapporteur regrets not having received response to his communications and reiterates that he views replies to his communications are an essential feature of Government cooperation with his mandate. He considers responses to his communications as an important part of the cooperation of Governments with his mandate and urges the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Human rights defenders and the right to association

251. The Special Rapporteur was dismayed to learn that Mr. Mohar Ali Mondal, the District Human Rights Monitor for Banglar Manabadhikar Suraksha Manch (MASUM), a human rights organization based in West Bengal, who was the subject of nine previous communications, faces alleged surveillance by authorities. He considers threats against human rights defenders, including members of associations, a grave source of concern not only to the individuals affected, but more generally for the message it propels to other civil society actors who wish to engage in defence of human rights.

252. In connection with the case of Ms. Setalvad and Mr. Anand, he recalls his concerns over the alleged reprisals against these human rights defenders because of their organizations' work. He emphasizes that while the State does not have to agree with the opinions and criticism expressed by persons espousing minority or dissenting views or beliefs, it has a positive obligation to ensure the existence of an enabling environment for civil society, including the enjoyment of the right of association, so that it may exist, operate and express itself freely and without fear (A/HRC/20/27, paragraph 63). He urges authorities to implement all necessary measures to protect people exercising their right to freedom of association and peaceful assembly against threats, violence, intimidation or reprisals.

Country visit

253. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to India, as indicated by letters on 26 September 2014. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good

practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

Indonesia

254. JAL 01/05/2014. Case no: IDN 2/2014. State reply: None. Alleged violent dispersal of a demonstration in Jayapura, West Papua and reported arrests and torture of two student protestors.

255. JAL 11/04/2014. Case no: IDN 1/2014. State reply: None. Alleged undue restrictions on the exercise of the rights to freedom of peaceful assembly, expression and association of members of the Indigenous People of Biafra.

Observations

Responses to communications

256. The Special Rapporteur regrets that he did not receive replies to date to his communications and reiterates hat responses to his communications are an important part of the cooperation of Governments. He looks forward to receiving detailed responses to the questions raised in them, in at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Negative obligation of the State to not unduly interfere with these rights

257. The Special Rapporteur urges the Government of Indonesia to take measures to put in place an enabling environment for associations to operate safely and for protests to take place free from undue restrictions. He remains concerned about the reported excessive use of force during peaceful assemblies in Waena and Abepura in April 2014 and about the denial to register an association and to authorize it to organize a rally in Jakarta in May 2014 (IDN 1/2014). He recalls that the State committed to protecting and promoting rights set forth in international law and standards, including in the International Covenant on Civil and Political Rights acceded by Indonesia on 23 February 2006 that provides for the rights to freely associate and assemble. He reaffirms that while assemblies can be subject to certain restrictions, which are prescribed by law and are necessary in a democratic society, there should be a presumption in favour of holding peaceful assemblies and prohibitions should be measures of last resort. In this context, he believes that a swift notification procedure to hold a peaceful assembly complies better with international standards, whereas other requirements can lead to undue interference. Similarly, he is of the view that authorities should automatically grant associations legal personality as soon as notified (A/HRC/20/27, paragraph 28).

258. In relation to the reported undue human rights restrictions against the indigenous people of Biafra, the Special Rapporteur echoes the call of the Committee on Economic, Social and Cultural Rights to, inter alia, strengthen the legislative protection against discrimination, prohibit discrimination, and punish perpetrators and provide remedies and reparation for victims (E/C.12/IDN/CO/1, paragraph 10). He further stresses that indigenous communities are a category of people that require special attention. He reminds that a resolute positive environment that allows and promotes the rights of all people to freely associate and assemble is essential in order for the State to fully comply with its international human rights obligations.

Country visit

259. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Indonesia, as indicated by his letters on 23 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

Iran (Islamic Republic of)

260. JUA 27/01/2015. Case no: IRN 2/2015. State reply: None. Alleged arrest and detention of a woman human rights defender and member of the Council for Defence of Educational Rights.

261. JUA 21/10/2014. Case no: IRN 25/2014. State reply: None. Alleged arrest and detention of a human rights activist, including as a form of reprisal for cooperating with the United Nations.

262. JUA 17/10/2014. Case no: IRN 24/2014. State reply: None. Alleged arrest, detention, and sentencing of seven individuals for exercising their right to freedom of expression, including in the form of art, and their right to take part in cultural life without discrimination on the basis of sex and gender.

263. JUA 19/09/2014. Case no: IRN 18/2014. State reply: 27/04/2015. Alleged imprisonment and deteriorating health condition of a human rights activist.

264. JUA 21/07/2014. Case no: IRN 14/2014. State reply: None. Alleged arrest, imprisonment and denial of medical care to journalists and human rights activists.

265. JUA 15/07/2014. Case no: IRN 12/2014. State reply: 07/01/2015. Alleged arbitrary detentions, ill-treatment and denial of or inadequate health care of individuals for their involvement in human rights activities, as well as reported acts of reprisals against individuals for cooperating with the United Nations.

266. JUA 11/06/2014. Case no: IRN 9/2014. State reply: None. Alleged acts of reprisal in the form of ill-treatment of six human rights defenders and other detainees in Evin prison.

267. PR 08/08/2014. Iran: UN rights experts condemn the recent wave of arrest and sentencing of civil society actors.

Observations

Responses to communications

268. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its two responses to the communications sent during the present reporting period. However, he regrets to not have received replies to the communications sent on 11 June 2014 (IRN 9/2014), 21 July 2014 (IRN 14/2014), 17 October 2014 (IRN 24/2014), 21 October 2014 (IRN 25/2014) and 27 January 2015 (IRN 2/2015). He urges the Government to provide detailed responses to the questions raised in his letters, given the severity of the allegations contained therein. He reminds the authorities that he considers responses to his communications as an important part of the cooperation of Governments with his mandate,

in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Reported reprisals

269. The Special Rapporteur is seriously concerned about allegations of acts of reprisals in the form of intimidation against associations' members because of their cooperation with the United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran (IRN 25/2014 and IRN 9/2014) and the Human Rights Council (IRN 12/2014). He duly takes note of the Government's response and the results of investigations that indicate that in the view of the Iranian judicial officers such reprisals did not take place. However, the severity of the allegations and reliability of the sources require the Special Rapporteur to insist on requesting the Government to clarify and determine whether a crime occurred and to keep him informed about the status of investigations, prosecution and protection plans put in place.

Environment in which these rights are exercised

270. The Special Rapporteur remains gravely disturbed by allegations that indicate an escalating trend of arrests and sentencing of individuals exercising their rights to freedom of peaceful assembly and association. Moreover, he expresses concern at the reported instances of torture and ill-treatment and lack of access to or inadequate health care of civil society activists while in detention facilities. He recalls the decisive role played by associations to foster development and to meet populations' needs and aspirations and the importance of ensuring a free and unhampered enjoyment of the right to assembly and protest to build peaceful and democratic societies. To this end, he urges the authorities of the Islamic Republic of Iran to respect, protect and fulfil the rights to free association and peaceful assembly.

Security considerations

271. While he acknowledges the response of the Government dated 27 April 2015 indicating that the secretary general of an opposition party was convicted to eight years imprisonment for, inter alia, "acting against national security through assembling", he warns against the practice of resorting to security considerations to adopt stricter measures that annul fundamental rights and freedoms. He also cautions the authorities against vague legal provisions governing the rights to freedom of peaceful assembly and association that increase the risk of abuses and violations to these rights and infuse fear of breaking the law among society, which in turn can lead to self-censorship.

272. The Special Rapporteur reminds the State of its obligation to ensure a conducive environment to the free exercise of the rights of peaceful assembly and association; both rights enshrined in the International Covenant on Civil and Political Rights, acceded by the State on 24 June 1975. It also reiterates that, according to this same Covenant, only a very limited number of restrictions to these rights may apply, which should be prescribed by law and necessary in a democratic society.

Political parties

273. In relation to the reported prohibition of the opposition political party Iran Democratic Front, he reminds the State that any decision rejecting the application of an association requires clear motivation and communication in writing to the applicant, who should have the opportunity to challenge the decision in court. Moreover, he reiterates that the right to form and to join an association also protects political parties, whether registered or not (A/HRC/20/27, paragraph 61). In this context, the Special Rapporteur stresses that the rights to freedom of peaceful assembly and of association are a critical means for

individuals and groups of individuals to participate in public affairs. The exercise of such rights provides avenues through which people can aggregate and voice their concerns and interests and endeavour to fashion governance that responds to their issues. (A/68/299, paragraph 6). The Special Rapporteur urges the Islamic Republic of Iran to recognize that the rights to freedom of peaceful assembly and association play a central role in a democracy and to ensure that no one is criminalized, threatened or intimidated for exercising these rights.

Lao People's Democratic Republic (the)

274. JAL 07/11/2014. Case no: LAO 1/2014. State reply: None. Allegations concerning undue restrictions to the right to freedom of expression and opinion in relation to the newly approved Decree No. 327 on Internet-Based Information Control/Management.

275. PR 23/12/2014. Lao: UN experts appeal for international help two years after the enforced disappearance of leading rights defender.

Observations

Responses to communications

276. The Special Rapporteur regrets to not have received a response to his communication and recalls that responses to his communications are an important part of the cooperation of Governments. He looks forward to receiving detailed responses to the questions raised in his communication at the earliest possible convenience, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) on the rights to freedom of peaceful assembly and association that call upon States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

Environment in which these rights are exercised

277. The Special Rapporteur reiterates his upmost concern regarding to the disappearance of human rights defender and land activist Mr. Sombath Somphone in December 2012. Further to his various communications, press releases and reports to the Human Rights Council, he urges again the authorities to carry out an independent, thorough and effective investigation to locate his whereabouts, bring perpetrators to justice and ensure that victims receive adequate compensation. He expresses serious concern about the stagnant investigations and widespread chilling effect that the disappearance of a high profile human rights defender may have on others. The Special Rapporteur calls on the authorities to put in place an enabling and safe environment that is conducive to the free expression of civil society and the exercise of the right to freedom of association without undue hindrance.

Decree No. 327 on Internet-Based Information Control/Management

278. The Special Rapporteur remains very concerned by vague or ambiguous provisions of the aforementioned Decree No. 327, which seek to develop principles and procedures to manage information through the Internet. Controverted provisions include the prohibitions to disseminate "false or misleading information" or to promote "untrue information", which allow for arbitrary interpretations that could seriously limit the free exercise of fundamental freedoms on the Internet. The Special Rapporteur believes that the risk of violating the rights under his mandate is even greater if the laws that govern them are vague since the citizens' fears of breaking the law can lead to self-silencing.

279. He takes this opportunity to call upon the Lao People's Democratic Republic to refrain from passing or implementing laws, as well as validating practices that seriously impede the enjoyment of fundamental rights. Moreover, he urges the authorities to uphold their international human rights commitments, namely to respect and promote the provisions contained in the International Covenant on Civil and Political Rights, ratified by the State on 25 September 2009, which include the rights to peaceful assembly and association. In this regard, he stands ready to provide technical assistance to ensure that State's normative framework complies with international human rights norms and standards governing the freedoms of association and assembly.

280. In relation to the use of the Internet, the Special Rapporteur calls on the authorities to guarantee an unhampered access to the Internet and echoes Human Rights Council resolution 26/13 on the promotion, protection and enjoyment of human rights on the Internet.

Country visit

281. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to the Lao People's Democratic Republic, as indicated by his letters on 12 December 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

Malaysia

282. JAL 25/02/2015. Case no: MYS 1/2015. State reply: None. Alleged arrest and detention of two human rights defenders under the Sedition Act 1948 for exercising their right to freedom of expression.

283. JAL 23/12/2014. Case no: MYS 8/2014. State reply: None. Alleged restrictions to the right to freedom of opinion and expression of the Sedition Act of 1948

284. JAL 01/10/2014. Case no: MYS 6/2014. State reply: 14/10/2014. Alleged criminalization of the lawful exercise of the right to freedom of opinion and expression through application of the Sedition Act of 1948.

285. JAL 18/08/2014. Case no: MYS 5/2014. State reply: None. Alleged excessive use of force by the police against environmental activists and local residents peacefully protesting against an Australian private company.

286. JAL 27/05/2014. Case no: MYS 4/2014. State reply: None. Alleged systematic persecution and discrimination against Shi'a Muslin s.

287. JAL 05/05/2014. Case no: MYS 3/2014. State reply: None. Alleged ongoing criminal proceedings against a human rights defender under the Film Censorship Act of 2002.

288. JAL 28/03/2014. Case no: MYS 2/2014. State reply: None. Alleged arbitrary arrest and persecution of several members of the Shi'a Muslim minority community for their religious beliefs.

Observations

Responses to communications

289. Unlike previous years, the Special Rapporteur regrets that the Government of Malaysia failed to respond to most of his communications. He urges the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) on the rights to freedom of peaceful assembly and of association that call upon States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in the communications.

Environment in which these rights are exercised

290. The Special Rapporteur is concerned about the environment in which the rights to freedom of peaceful assembly and of association are exercised and warns against situations that may seriously impair the enjoyment of these rights (A/HRC/20/27, paragraph 20). The cases that have been reported signal judicial harassment of human rights defenders and discrimination practices against members of the Shi'a Muslim community. The Special Rapporteur reiterates that while the State does not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs, it has a positive obligation to ensure the existence of an enabling environment for civil society, in terms of enjoyment of the rights of peaceful assembly and association, so that it may exist, operate and express itself freely and without fear (A/HRC/20/27, paragraph 63).

Sedition Act of 1948

291. The Special Rapporteur thanks the State for its reply dated 14 October 2014 in relation to the Sedition Act of 1948. While he acknowledges the clarification as to the limitations introduced by the Act to the right to freedom of expression, he reiterates the concerns raised in subsequent communications about indications of unlawful arrests and criminalization of individuals under the provisions of the Act. He fears that what appears to be a shrinking space for critical voices may result in the self-silencing of people wishing to exercise their rights to freedom of peaceful assembly and of association. In his view, vague considerations such as the fight against threats to the "harmony of Malaysia" contribute to exacerbating arbitrary and restrictive interpretations and should be reviewed in accordance with international human rights law and standards. He asks the Government to keep him informed on the outcome of the proceedings and investigations of the individuals mentioned in his communications who were charged under the Act.

292. In relation to the use of the Internet, the Special Rapporteur calls on the authorities to guarantee an unhampered access to the Internet and echoes Human Rights Council resolution 26/13 on the promotion, protection and enjoyment of human rights on the Internet.

293. The Special Rapporteur takes this opportunity to call upon Malaysia to refrain from passing or implementing laws, as well as validating practices that seriously impede the enjoyment of fundamental rights. Moreover, he urges the authorities to uphold their international human rights commitments, namely to respect and promote the provisions contained in the Universal Declaration of Human Rights which include the rights to peaceful assembly and association. He reminds the State that according to this Declaration, no restrictions may be placed on the exercise of these rights other than those that are determined by law and that strictly intend to guarantee the respect for the rights and freedoms of others and to meet requirements of morality, public order and the general welfare in a democratic society. He emphasizes that the freedoms are the norm and

restrictions are the exception. In this context, he articulates that there should be a presumption in favour of holding peaceful assemblies and associating freely and that security considerations should not be used as a justification for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and of association. In this regard, he stands ready to provide technical assistance to ensure that State's normative framework complies with international human rights norms and standards governing freedoms of association and assembly.

Country visit

294. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Malaysia, as indicated by his letters on 23 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider his requests for visits favourably.

Myanmar

295. JUA 12/08/2014. Case no: MMR 5/2014. State reply: 27/10/2014. Alleged reprisals, in the form of arbitrary arrest, against a human rights defender for cooperating with the United Nations, its mechanisms and representatives in the field of human rights.

296. JAL 11/04/2014. Case no: MMR 2/2014. State reply: 25/07/2014. Alleged undue restrictions of the right to freedom of association as contained in the last version of the draft Law relating to Registration of Organizations.

297. JUA 17/03/2014. Case no: MMR 1/2014. State reply: 17/07/2014. Alleged arbitrary arrest and detention of a human rights defender.

298. PR 07/04/2014. "Myanmar: UN expert raises alarm on Rakhine State"

Observations

Responses to communications

299. The Special Rapporteur expresses his thanks to the Government of Myanmar for its responses, including two replies aimed at clarifying the facts of the cases. In relation to the Government's reply from 25 July 2014, which requested that the joint allegation letter of 4 November 2014 (MMR 2/2014) on draft legislation not be included in the communication report, he would like to highlight the preventive functions of mandate holders. The Special Rapporteur notes that in his capacity as a Human Rights Council mandated expert, he may reflect and comment on legislation and other national developments with the aim of preventing possible human rights violations. He is of the view that these actions can help promote a constructive dialogue with the Government and other stakeholders, and in turn cooperation for the promotion and protection of human rights.

Reported reprisals

300. The Special Rapporteur is greatly concerned about allegations of an act of reprisal, in the form of arrest and detention of Mr. Sein Than. These acts occurred while Mr. Than was reportedly heading to the United Nations office in Myanmar to deliver information intended for the Special Rapporteur on the Situation of Human Rights in Myanmar, whom he met with earlier in July 2014 (MMR 5/2014). He duly takes note of the Government's

response, however, regrets that no comments were made in relation to the measures that Myanmar is taking to guarantee the exercise of the rights to peaceful assembly and association in the county as well as ensure that human defenders can interact with the United Nations and his mechanism without fear of harassment.

Peaceful Gathering and Procession Law

301. The Special Rapporteur thanks the Government of Myanmar for clarifying the details of Mr. Sein Than's arrest in relation to the provisions of its law governing peaceful assemblies (the Law on the Right to Peaceful Assembly and Peaceful Procession) (MMR 5/2014). However, he recalls his concerns that that law contains provisions, including relating to the regime of authorization and on the conduct of protests, which unduly restricts the right to peaceful assembly.

302. He restates the decisive role played by assemblies and the importance of enjoyment of the right to peaceful assembly to build peaceful and democratic societies. To this end, he urges the authorities of Myanmar to respect, protect and fulfill the rights to peaceful assembly and association.

Draft Law relating to the Registration of Organizations

303. The Special Rapporteur reiterates his concerns about the draft Law relating to the Registration of Organizations (MMR 2/2014). These concerns include, the restrictive definitions, the registration process of associations and the area in which they may geographically operate, and the prior authorization process to establish an association. He encourages a broader definitions of 'associations' in line with international standards to include any groups of individuals or any legal entities brought together to collectively express, promote, pursue and defend common interests" (as per A/59/401, paragraph 46). The Special Rapporteur echoes his earlier concerns regarding the right to appeal in the draft, which would be done by the same registration committee, and the denial of unregistered associations from undertaking fundraising activities. He notes that the right to freedom of association also protects association that are not formally registered as stated in the thematic report of 2012 (A/HRC/20/27).

304. The Special Rapporteur recalls the insight of Human Rights Council resolution 24/5, and in particular operative paragraph 2, and reminds the Government of Myanmar of its obligations to respect and fully protect the rights of all individuals to associate freely and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of association is in accordance with its obligations according to international human rights law.

Rights to peaceful assembly and association in the context of projects relating to natural resource exploitation

305. Regarding the information received that points to an increasingly restrictive environment for the exercise of these rights, particularly for human rights defenders working in contexts of natural resource exploitation, the Special Rapporteur reminds that a positive environment that allows and promotes the rights of all people to freely associate and assemble is essential in the context of exploitation of natural resources to ensure a fair, transparent and accountable process that benefits all the parties involved (A/HRC/29/25). In this regard, he remains seriously concerned about allegations of arrest and charges against, Mr. Thaw Zin in relation to several demonstrations he organized in 2013 against the Letpadaung copper mine (MMR 1/2014).

306. The Special Rapporteur expresses concern that the arrest and detention of Mr. Zin may be linked to the exercise of his rights to freedom of association, peaceful assembly and

opinion and expression. He recalls that Mr. Zin was previously arrested and detained under Article 18 of the Peaceful Assembly and Peaceful Procession Law but was released by way of a presidential amnesty granted on 31 December 2013. He notes the reply of the Government and he articulates that there should be a presumption in favour of holding peaceful assemblies and associating freely. The Special Rapporteur also believes that the exercise of fundamental freedoms should not be subject to previous authorization by the authorities, but at the most to a prior notification procedure. The rationale behind a prior notification process is to allow State authorities to facilitate the exercise of the right to freedom of peaceful assembly and to take measures to protect public safety and order and the rights and freedoms of others.

Rights to freedom of peaceful assembly and of association for groups most at risk.

307. With regard to the deterioration of the human rights situation in the Rakhine State and further discrimination and persecution against the Rohingya community (PR 07/04/2014), the Special Rapporteur endorses the concerns of the Special Rapporteur on the situation in Myanmar. He further invites the Government of Myanmar to refer to international legal instruments and principles which state concrete measures that States should adopt to achieve non-discrimination and equality.

308. The worries expressed in the press release should be taken together with the views expressed in his report on the threats to the rights to freedom of peaceful assembly and of association for groups most at risk. The Special Rapporteur observed that, often by design, citizenship and residency status frequently affect assembly rights ((A/HRC/26/29). He recalls the concerns expressed in his report that article 354 of the Constitution of Myanmar grants the right of assembly uniquely to citizens (thus denying the right to non- citizens). The Special Rapporteur finds no basis in international law for depriving non-citizens of their assembly rights and notes that those rights of significant importance for non-citizens and migrants, who may not be privy to other mechanisms with which to advance their political, social and economic interests. He expresses concern once more that the assemblies of certain groups, like the Rohingya, have been selectively targeted. The special Rapporteur urges the Government to be bold in addressing the human rights challenges that exist, in accordance with international law.

Country visits

309. The Special Rapporteur reminds the Government of Myanmar of his willingness to undertake a country visit in the framework of his mandate, last indicated by letter on 30 October 2013. He notes the response of the Government, on 3 December noting such a mission was not possible at the time. In this connection, he would be grateful for the continuing cooperation of the Government with his mandate and he looks forward receiving a positive reply to his request in 2015.

Nepal

310. JUA 03/10/2014. Case no: NPL 6/2014. State reply: None. Allegations of arbitrary arrest and detention of a member of the Alliance for Independent Madhesh.

Observations

Responses to communications

311. The Special Rapporteur regrets not having received a response to his communication and reiterates that he views replies to his communications as an essential feature of

Government cooperation with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Management of peaceful protests

312. The Special Rapporteur expresses concern at the reported prosecution of Mr. Chandra Kant Raut for his role in a peaceful rally in Morang in September 2014 and asks the Government to keep him informed on the outcome of the proceedings and investigations of the case, in the briefest delays. Moreover, he expresses concern at the reported failure of the authorities to respect the right of people to not be deprived arbitrarily of their liberty and, in this regard, stresses the recommendation of the Human Rights Committee that calls upon the Government of Nepal to take appropriate measures to ensure that no one is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees (CCPR/C/NPL/CO/2, paragraph 11), in compliance with articles 9 and 14 of the Covenant on Civil and Political Rights, which Nepal acceded on 14 May 1991.

313. The Rapporteur reiterates that while the State does not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs, it has a positive obligation to ensure the existence of an enabling environment for civil society, in terms of enjoyment of the rights of peaceful assembly and association, so that it may exist, operate and express itself freely and without fear (A/HRC/20/27, paragraph 63).

Country visit

314. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Nepal, as indicated by his letter on 26 September 2014. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

Pakistan

315. JAL 22/05/2014. Case no: PAK 7/2014. State reply: 26/05/2014 (acknowledgment). Alleged killing of a human rights lawyer due to his work representing a client on trial for blasphemy.

316. JUA 03/04/2014. Case no: PAK 4/2014. State reply: 04/04/2014 (acknowledgment). Alleged harassment and intimidation of a human rights defender and his family.

317. JAL 07/03/2014. Case no: PAK 3/2014. State reply: None. Alleged undue restrictions of the right to freedom of association contained in the Foreign Contributions Bill (2013).

Observations

Responses to communications

318. The Special Rapporteur takes note of the responses of the Government of Pakistan acknowledging receipt of his communications. However, he regrets that the Government failed to provide substantial responses to the questions raised in the communications since the establishment of the mandate in 2011. He considers responses to his communications as an important part of the cooperation of Governments with his mandate and urges again the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012)

and 15/21 (2010) on the rights to freedom of peaceful assembly and of association that call upon States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

Environment in which these rights are exercised

319. The Special Rapporteur reiterates his grave concern at the killing of a lawyer and member of the Punjab office of the Human Rights Commission of Pakistan that appears to be the direct result of his peaceful work promoting and protecting human rights. He emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 3 of the Universal Declaration of Human Rights. In light of the threats that followed the attack, he remains similarly concerned about the physical integrity and safety of civil society activists who work on blasphemy cases in Pakistan. He requests the Government to keep him informed about the current status of investigations, prosecution and protection plans put in place in Pakistan to ensure that human rights defenders, and in particular lawyers, are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

320. In addition, the Special Rapporteur appeals to the Government for detailed information on the measures taken in relation to the alleged intimidation of the chairman of the Voice for Baloch Missing Persons in March 2014 and attacks against his family for his legitimate work and participation in a peaceful assembly in October 2013. He also asks the authorities to keep him informed about the actions taken with regard to the threats against the chairman and the vice-chairman of the aforementioned organization for their collaboration with the Working Group on Enforced or Involuntary Disappearances during its visit to the country in September 2012. He remains greatly concerned by these allegations of reprisals and echoes the Human Rights Council resolutions 12/2, 24/24 and 27/38, which condemn all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights

321. The Special Rapporteur takes this opportunity to remind the positive obligation of State Parties to the International Covenant on Civil and Political Rights to guarantee the protection of the rights contained under the Covenant against violations by their agents and by private individuals or entities, which includes the obligation to take appropriate measures to prevent, investigate, prosecute and punish those responsible and repair the damage caused (CCPR/C/21/Rev.1/Add.13, paragraphs 8 and 18). In turn, he warns against situations that may seriously impair the enjoyment of these rights (A/HRC/20/27, paragraph 20).

Negative obligation of the State to not unduly interfere with these rights

322. The Special Rapporteur reminds authorities that they must ensure that everyone can peacefully express their views without any fear; they also have a negative obligation not to obstruct the exercise of the right to freedom of association, which includes guaranteeing that both registered and unregistered association can seek and secure funding and resources without discrimination (A/HRC/20/27, paragraphs 64 and 68). He notes with concern that associations' ability to access funding appears compromised by the Foreign Contributions Bill 2013 and the policy regulating organizations receiving foreign contributions, which only consider registered associations eligible for foreign funding and resources. Additional provisions regulating associations receiving foreign funding, which introduce intrusive

requirements, allow for the State to unduly interfere with associations' areas of work and activities, and provide for insufficient safeguards are of grave concern to the Special Rapporteur and require revision in accordance with international human rights law and standards. Similarly, the Special Rapporteur warns against the vague definitions contained in the said bill that may lead to arbitrary applications of the law.

323. The Special Rapporteur encourages Pakistan to overturn any legislation that curtails the right to freedom of peaceful assembly. Moreover, he articulates that States cannot refer to additional grounds to restrict this right other than the limited ones contained in the International Covenant on Civil and Political Rights, and cannot loosely interpret international obligations to restrict the right to freedom of association (A/HRC/23/39, paragraph 30).

Country visit

324. In reference to the country visit requests he sent in September 2011 and October 2013, the Special Rapporteur would like the Government to take note of his desire to carry out a country visit to Pakistan in the framework of his mandate. He thanks the Government for its acknowledgment of his country request on 28 September 2011 and hopes to receive a positive reply from the Government, in the spirit of Human Rights Council resolutions 15/21 and 24/5 which calls upon States to consider favourably his or her requests for visits.

Philippines (the)

325. JAL 06/05/2014. Case no: PHL 3/2014. State reply: None. Alleged killing of a human rights defender and the increased harassment and surveillance of a human rights lawyer.

326. JUA 31/03/2014. Case no: PHL 2/2014. State reply: None. Allegations of a series of killings, attempted killings and death threats against indigenous leaders, peasant leaders and environmental activists.

Observations

Responses to communications

327. The Special Rapporteur regrets that the Government of the Philippines failed to provide substantial responses to the questions raised in the communications since the establishment of the mandate in 2011. He considers responses to his communications as an important part of the cooperation of Governments with his mandate and urges again the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) that call upon States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

Environment in which these rights are exercised

328. The Special Rapporteur is gravely concerned about the reports of aggressions and violations of the rights of indigenous leaders and other civil society activists, including attacks and killings, for their peaceful and legitimate work in the defence of human rights. The Special Rapporteur urges the authorities to take the necessary steps to ensure that such acts are promptly investigated, appropriate measures are taken, perpetrators are brought to justice and victims are adequately compensated, particularly in cases in where the police or other state agents, are involved. He emphasizes that the right to life should be guaranteed

by States to all individuals under all circumstances at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 3 of the Universal Declaration of Human Rights. Moreover, he reminds the obligation of States to ensure a conducive environment to the free exercise of the right of association, a right enshrined in the International Covenant on Civil and Political Rights, which was ratified by the Philippines on 23 October 1986. In turn, the expert warns against situations that may seriously impair the enjoyment of these rights (A/HRC/20/27, paragraph 20). In addition, the Special Rapporteur requests the Government to keep him informed in the briefest delays of the current status of investigations and measures taken to guarantee the rights of civil society activists to carry out their legitimate activities without fear of harassment, stigmatization or violence of any kind.

Natural resources exploitation's contexts and groups experiencing higher risks

329. In connection with the allegations indicating attacks against members of indigenous communities, the Special Rapporteur invites the Government of the Philippines to adopt concrete measures to achieve non-discrimination and equality as referenced in relevant international legal human rights instruments and standards. In particular, the United Nations Declaration on the Rights of Indigenous People calls upon States to combat prejudice, eliminate discrimination and promote tolerance, understanding and good relations among indigenous peoples and all other segments of society. Furthermore, this Declaration emphasizes the rights of indigenous peoples to participate fully in the political, economic, social and cultural life of the State, and to determine their own identity or membership in accordance with their customs and traditions (United Nations Declaration on the Rights of Indigenous Peoples, articles 5 and 33). The Special Rapporteur also stresses that indigenous communities, as well as environmental, land rights and other activists and groups that advocate for the effective consultation and participation of communities affected by land-related decisions affecting them, are categories of people requiring special attention. He reiterates that a resolute positive environment promoting the rights of all people to freely associate and assemble is essential in the context of exploitation of natural resources to ensure a fair, transparent and accountable process that benefits all the parties involved (A/HRC/29/25, paragraph 67).

Country visit

330. In reference to the country visit requests he sent in September 2011 and October 2013, the Special Rapporteur would like the Government to take note of his desire to carry out a country visit to the Philippines in the framework of his mandate. He looks forward to receiving a positive reply at the earliest possible opportunity. He point out that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider his requests for visits favourably.

Republic of Korea (the)

331. JAL 18/08/2014. Case no: KOR 3/2014. State reply: 22/10/2014.Allegations of excessive use of force by Government employees, private security and police officers against environmental human rights defenders and communities affected, who were protesting against the construction of sixty-nine high-voltage (765kv) nuclear power transmission towers by the Korea Electric.

332. JAL 31/07/2014. Case no: KOR 4/2014. State reply: 28/10/2014.Alleged ban imposed on a teachers union by the Ministry of Employment and Labour.

Observations

Responses to communications

333. The Special Rapporteur expresses his thanks to the Government of the Republic of Korea for its replies to the communications sent during the period under consideration. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

334. The Special Rapporteur acknowledges the measures taken by the police to secure the area around the construction site of Miryang power transmission tower and settlement made to establish a memorial altar by the same area. He is pleased to learn that the National Human Rights Commission of Korea dispatched a human rights monitoring group to the site. The Special Rapporteur recalls that the State committed to protect and promote rights set forth in international law and standards, and in that regard, looks forward to receiving further information on the outcome of the proceedings and investigations related to the cases mentioned in his communication dated 18 august 2014 (KOR 3/2014), which include alleged assault on residents and excessive use of force by the police. He reiterates that a resolute positive environment promoting the rights of all people to freely associate and assemble is essential in the context of exploitation of natural resources to ensure a fair, transparent and accountable process that benefits all the parties involved (A/HRC/29/25, paragraph 67).

335. Regarding the reported 391 teachers accused of engaging in protests since the sinking of the Sewol Ferry in April 2014, the Special Rapporteur takes note of the Republic of Korea's National Constitution that provides for the political impartiality of education. However, he articulates that there should be a presumption in favour of holding peaceful assemblies and that States cannot refer to additional grounds to restrict this right other than the limited ones contained in the International Covenant on Civil and Political Rights, and cannot loosely interpret international obligations to restrict the right to freedom of association (A/HRC/23/39, paragraph 30). With this in mind, he encourages the Government to overturn any legislation that unduly curtails the rights to freedom of peaceful assembly.

Country visit

336. The Special Rapporteur thanks the Government for its invitation to carry out a visit to the country during the first half of 2016. He hopes to respond to the authorities in the near future with a proposal for dates for this visit, within the framework of his other mandated activities for 2016, and reiterates his appreciation to the Government for its collaboration with the mandate.

Sri Lanka

337. JAL 24/11/2014. Case no: LKA 12/2014. State reply: None. Response to the request for clarifications received from the Government of Sri Lanka on 24 July 2014 (follow-up to LKA 5/2014).

338. JUA 14/08/2014. Case no: LKA 10/2014. State reply: 18/08/2014 (acknowledgement). Alleged dispersal of, and acts of intimidation against, a group of individuals gathered to discuss cases of disappearance in Sri Lanka, and possible collusion between the assailants and the police.

339. JUA 27/03/2014. Case no: LKA 5/2014. State reply: 10/07/2014; 24/07/2014. Alleged threats made against a human rights defender during the Human Rights Council session.

340. JUA 21/03/2014. Case no: LKA 4/2014. State reply: 23/09/2014. Allegations of reprisals on State television against 24 civil society organizations for submitting a report to the Human Rights Council.

341. JUA 20/03/2014. Case no: LKA 3/2014. State reply: None. Alleged arbitrary arrest and detention of three human rights activists.

Responses to communications

342. The Special Rapporteur takes notes of two replies received during the period under consideration and regrets that three communications did not receive a reply to date. He considers responses to his communications an important part of the cooperation of Governments with his mandate and urges the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) which call upon States to cooperate fully with him in the performance of his mandate and to respond promptly to his communications.

Reported intimidation and reprisals

343. The Special Rapporteur is greatly concerned about allegations of an act of reprisal against Mr. Visuvalingam Kirupaharan in relation to threats made against him at a Human Rights Council side-event in Palais des Nations, Geneva on 21 March 2014. He is concerned about the smear campaign against Mr. Kirupaharan, including in the media, for his work with the United Nations and its human rights mechanisms (LKA 5/2014). He duly notes the Government's reply and reiterates the views expressed in his follow-up response (LKA 12/2014) that the State remains the primary duty-bearer tasked with protecting defining and promoting human rights.

344. Earlier reprisals on 6 March 2014 on State television against 24 civil society organizations for issuing a report to the Human Rights Council are also a cause for concern (LKA 4/2014). In particular, the Special Rapporteur is alarmed about the allegations that State TV undermined the image and the credibility of associations in retaliation for their legitimate human rights work.

345. In relation to these cases, the Special Rapporteur would value further information detailing the measures Sri Lanka is taking to ensure the freedoms of association and expression in the country as well as guarantee that human rights defenders can interact with the United Nations and his mechanism without fear of harassment.

Positive obligation of the State to actively protect peaceful assemblies

346. The Special Rapporteur remains concerned about the dispersal of a peaceful assembly of individuals gathered to discuss cases of disappearance in Sri Lanka and possible collusion between the perpetrators of the intimidation and law enforcement authorities (LKA 10/2014). He notes that the State committed to protecting and promoting rights set forth in international laws and standards, including in the International Covenant on Civil and Political Rights acceded by Sri Lanka on 11 Jun 1980, which enshrines the rights to peaceful assembly and association. He reaffirms that there should be a positive presumption in favour of holding peaceful assemblies and that the State has an obligation to actively protect such gatherings. That obligation includes the protection of participants of peaceful assemblies from individuals or groups of individuals who aim to disrupt or disperse such assemblies (A/HRC/20/27, paragraph 33).

Maintenance of an enabling environment for associations

347. The Special Rapporteur reiterates that the right to freedom of association requires the Government of Sri Lanka to take positive measures to create and maintain an environment in which individuals exercising this right are able to execute there functions freely, without, among other things, being subjected to acts of intimidation, violence or arbitrary arrest (A/HRC/20/27, paragraph 63). He expresses concern about the case involving Ms. Jayakumari (LKA 3/2014) and calls upon the Government to ensure that victims of violations and abuses of the right to freedom of association have to the right to an effective remedy and obtain redress (A/HRC/20/27, paragraph 84 (j)).

348. Following the recent review of the State of Sri Lanka by the Human Rights Committee, the Special Rapporteur takes note with concern of the continuous application of emergency regulations to counter terrorism that curb the right to freedom of association beyond the very limited restrictions provided for by international human rights law (CCPR/C/LKA/CO/5, paragraph 11). He reminds the authorities that the definitions and restrictions existing in international law are sufficient and the only legitimate grounds to regulate the right to associate. Therefore, he warns against regulations and practices designed to silence, intimidate and harass those who wish to carry out their activities in association with others.

Country visits

349. The Special Rapporteur takes this opportunity to note his willingness to undertake a country visit to Sri Lanka in the framework of his mandate, last indicated by letter on 10 April 2015. He trusts that such a visit would allow him to examine in person the issues related to his mandate, identify good practices and formulate pertinent recommendations to the relevant stakeholders. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits. In this connection, he would be grateful for the continuing cooperation of the Government with his mandate and he looks forward receiving a positive reply so as to enable a visit before the end of his tenure.

Thailand

350. JUA 19/02/2015. Case no: THA 2/2015. State reply: 02/04/2015; 24/02/2015 *(acknowledgement)*. Allegations of killings of three environmental and land rights defenders, the attempted killing of an environmental defender and his family, the temporary incommunicado detention of a land rights defender and threats made against environmental and land rights defenders and community members.

351. JUA 08/12/2014. Case no: THA 13/2014. State reply: 10/12/2014. Alleged charges, detention or convictions of 21 persons in relation to lèse-majesté offences, for having exercised their right to freedom of opinion and expression.

352. JAL 12/11/2014. Case no: THA 12/2014. State reply: None. Alleged non-compliance with international human rights law and standards of the draft Public Assembly Act, which, if adopted without further changes, may unduly restrict the right to freedom of peaceful assembly in Thailand.

353. JUA 12/09/2014. Case no: THA 10/2014. State reply: 15/09/2014. Alleged defamation complaint against two human rights defenders for their legitimate exercise of the right to freedom of opinion and expression and their activities in monitoring, documenting and reporting on cases of torture and ill-treatment.

354. JUA 22/08/2014. Case no: THA 9/2014. State reply: None. Alleged arbitrary arrest, detention, ill-treatment and torture in custody of a student activist by members of the military forces.

355. JAL 01/07/2014. Case no: THA 5/2014. State reply: 09/09/2014. Allegations of attacks and threats against villagers of Nanongbong, Loei Province, and environmental activists campaigning against the environmental and health impacts of gold mines in their communities.

356. JUA 28/05/2014. Case no: THA 6/2014. State reply: 13/06/2014. Allegations of the suspension of Constitutional guarantees, detention of senior political leaders and activists and the closure of multiple media outlets.

357. JUA 06/05/2014. Case no: THA 4/2014. State reply: 09/10/2014. Alleged attempted killing and intimidation of a human rights defender.

358. PR 13/06/2014. "Fundamental rights at stake in Thailand – UN experts concerned about arbitrary detentions and restrictions"

359. PR 11/03/2014. "Thailand: 10 years after Somchai's disappearance, family still awaiting truth and justice"

Observations

Responses to communications

360. The Special Rapporteur thanks the Government for the numerous replies received during the period under consideration and regrets that two communications did not receive a reply to date. He views responses to his communications as an important part of the cooperation of Governments and calls upon the Government to continue engaging with his mandate on these crucial issues, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environmental and land rights defenders

361. The Special Rapporteur notes with concern indications that numerous environmental and land rights defenders were subjected to threats, violence or harassment in the reporting period. He expressed his dismay at the multiple violations detailed in the communication of THA 2/ 2015, including the killings of Mr. Pitan Thongpanang, Mr. Somsuk Kohkrang and Mr. Chai Bunthonglek, the attempted killing of Mr. Suwit Jeh-Soh, the temporary incommunicado detention of Mr. Pianrat Boonrit and the threats made against environmental and land rights defenders as well as community members. The Special Rapporteur takes note of the reply on 2 April 2015, informing him of the status of the investigations and looks forward to receiving further information on the outcome of the proceedings. Regarding the context provided by the Government related to the long history and the complexity of land disputes, he recalls that precisely in relation to complex situations, the effective exercise of the rights to peaceful assembly and association can be important means tocall for greater respect for human rights. Furthermore, these rights provide for a non-violent alternative for seeking change and also give authorities a chance to gain insight into views and sentiments of its citizens.

Rights to peaceful assembly and association in the context of projects relating to natural resource exploitation

362. In relation to attacks and threats to environmental activities in the context of a project relating to natural resource exploitation, the Special Rapporteur reiterates his concern about the allegations of attacks against villagers of Nanongbong and members of

the Khon Rak Ban Keod Group of environmental activists who have been campaigning against the environmental and health impacts of gold mines in their communities (THA 5/2014). He takes note of the response from 9 September 2014 providing further information on the police investigation into the case and detailing other mechanism and initiatives for the protection of human rights defenders. He recalls that the State committed to protecting and promoting rights set forth in international law and standards, and in that regard, awaits further information on the outcome of the proceedings and investigations related to the case.

363. The Special Rapporteur also stresses that environmental, land rights and other activists and groups that advocate rights of those at risk are targeted because of their lobbying activities, including for effective consultation and participation of communities affected by land-related decisions. He urges that a positive environment allowing and promoting the rights of all people to freely associate and assemble is essential in the context of exploitation of natural resources to ensure a fair, transparent and accountable process that benefits all the parties involved (A/HRC/29/25, paragraph 67).

Environment in which these rights are exercised

364. The Special Rapporteur reiterates that the right to freedom of association obliges the Government to take positive measures to create and maintain an environment in which individuals exercising this right are able to execute their functions freely, without being subjected to acts of intimidation or violence (A/HRC/20/27, paragraph 63). Over a decade after the enforced disappearance of Mr. Somchai Neelaphaijit, a human rights lawyer and senior member of two lawyers' associations,, he urges the Government to ensure that the perpetrators are held criminally responsible (PR 11/03/2014). Impunity for such violations may act as a powerful deterrent for other civil society members to exercise their rights to peaceful assembly and association.

365. The Special Rapporteur reiterates his dismay at the suspension of the Constitution and imposition of martial law on 20 May 2014 (THA 6/2014) and acknowledges the reply of the Government from 13 June 2014. While he welcomes the efforts to decrease the measures taken under the Emergency Laws and notes the indication that these are temporary emergency measures until an interim constitution is put in place, he stresses that democratic processes are essential to the guarantee of human rights. In that regard, the Special Rapporteur notes his concerns regarding the curbing of fundamental rights since the military assumed power in the country (PR 13/06/2014). He is alarmed at allegations that indicate a continuing trend of restrictions on, and arrests of, individuals exercising their rights to freedom of peaceful assembly and association.

366. Regarding the public criticism of authorities and charges, detention or convictions of 21 individuals in relation to lèse-majesté offences (THA 13/2014), the Special Rapporteur is aware of the Government's response, which justified the application of lèse-majesté laws, giving reasons including the protection of the rights or reputation of the King of Thailand and the necessity of lèse-majesté to uphold national security and public order. The Special Rapporteur continues to disagree with this rationale and this interpretation of the Criminal Code and the Computer Crime Act and considers that they do not comply with Thailand's international human rights obligations, which include the International Covenant on Civil and Political Rights. In that regard, he requests further information on the measures taken, in order to repeal or amend the lèse-majesté laws and to bring domestic legislation into conformity with Thailand's obligations under international human rights instruments such as the aforementioned Covenant.

367. The Special Rapporteur remains concerned about the situations of members of associations, including the cases of Ms. Nurainee Uma, Ms. Khongkachomkiet and Mr.

Homla-or and those related to the activities of the associations in monitoring and documenting cases human rights violations (THA 4/2014 and THA 10/2014).

368. Moreover, he expresses concern at the reported instance of arbitrary arrest, torture and other ill-treatment in custody of student activist Ms. Kritsuda Khunasen, by members of the military forces, in relation to her affiliation with the United front of Democracy against Dictatorship (THA 9/2014). In this regard, he echoes the serious concerns expressed by the Committee against Torture during its recent review of the State, about bout the continued allegations of widespread torture and ill-treatment of detainees by the military, the police and prison officials (CAT/C/THA/CO/1, paragraph 10). Without a reply from the Government providing clarification of this case, the Special Rapporteur, reiterates his concerns about the lack of investigation into those allegations and the ungrounded arrest warrant issued against Ms. Khunasen.

369. He is particularly worried when these allegations take place in a context of restrictions to multiple rights and fundamental guarantees, against human rights defenders and political opponents in Thailand following the military coup and imposition of martial law (THA 9/2014, THA 10/2014).

370. The Special Rapporteur stresses that while the State does not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs, it has a positive obligation to ensure the existence of an enabling environment for civil society, in terms of enjoyment of the rights of peaceful assembly and association, so that it may exist, operate and express itself freely and without fear.

Draft Public Assembly Act

371. The Special Rapporteur reiterates his concerns about the draft Public Assembly Act, which may unduly curtail the right to freedom of peaceful assembly and the right to freedom of opinion and expression if adopted in its present form. Among his chief concerns are articles 7 and 11 (related to the regime of authorization for planning protests); article 13 (specifying that an authorized body may instruct the organizers to modify a public assembly); article 27 (relevant to the policing of assemblies); article 28 (pertaining to the disciplinary liabilities of a competent official who undertakes actions to contain a public assembly); article 18 (which prohibits assemblers "from causing inconvenience to the general public"); and article 30 (providing that the organizer of a public assembly may be subject to imprisonment for minor reasons, including failure to notify the competent authority of the intention to hold an assembly).

372. The Special Rapporteur is of the view that, as it stands, the draft Act is inconsistent with the obligations Thailand has committed to under international law. He recalls that the exercise of the freedom to peaceful assembly must not be subjected to previous authorization (A/HRC/20/27). Authorities ought to provide assembly organizers with timely and complete rationale for the imposition of restrictions and law enforcement officials must be held personally and fully accountable for violations of the right to freedom of peaceful assembly (A/HRC/20/27).

Country visits

373. In reference to the country visit requests he sent in September 2011 and October 2013, the Special Rapporteur would like the Government to takes note of his desire to carry out a country visit to Thailand in the framework of his mandate. He hope to receive a positive reply from the Government, in the spirit of Human Rights Council resolutions 15/21 and 24/5 which call upon States to consider his requests for visits favourably.

Viet Nam

374. JAL 19/05/2014. Case no: VNM 7/2014. State reply: 24/07/2014. Alleged acts of reprisals against the head of the Buddhist Youth Movement in the form of arbitrary detention through house arrest.

375. JAL 31/03/2014. Case no: VNM 5/2014. State reply: 11/07/2014.Alleged denial for a journalist to travel to Geneva to participate in a side-event at the Human Rights Council in connection the State's Universal Periodic Review.

376. JUA 26/03/2014. Case no: VNM 4/2014. State reply: 30/05/2014. Allegations of harassment and assault of a human rights defender and his wife, and the ongoing detention of three of his friends.

Observations

Responses to communications

377. The Special Rapporteur thanks the Government of Viet Nam for its detailed responses to the communications. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

378. The Special Rapporteur takes note of the Government reply indicating that Mr. Le Cong Cau, head of the Buddhist Youth Movement and secretary-general of the Executive Institute of the Unified Buddhist Church of Vietnam, was interrogated at the Phu Bai Airport of Thua Thien Hue city in January 2014 as a result of the alleged presence of unauthorized items in his luggage. He also takes note of the authorities' denial that an arrest and interrogation ever took place at Truong An district police station in February 2014 (VNM 7/2014). While the Special Rapporteur acknowledges the legal steps taken by the country to increase accountability of public officials found guilty of human rights violations, he recalls that the State committed to protect and promote rights set forth in international law and standards, and in that regard, looks forward to receiving further information on the outcome of the investigations related to the reported interrogation of Mr. Cong Cau in March 2013.

379. Regarding the case of Mr. Pham Chi Dung who was reportedly prevented from traveling abroad to take part in a side-event at the Human Rights Council in February 2014 (VNM 5/2014), the Special Rapporteur disagrees with the arguments that the acts of one person can jeopardize public order since it is difficult to envision that the acts of a single individual may disrupt public order. The Special Rapporteur articulates that there should be a presumption in favour of exercising the right to freedom of association and that security considerations should not be used as a justification for unduly strict rules or interpretations that void this right. The Special Rapporteur contends that no restrictions may be placed on the exercise of this right other than those that are strictly necessary under the International Covenant on Civil and Political Rights that Viet Nam acceded on 24 September 1982. Moreover, he echoes the Human Rights Council resolutions 12/2, 24/24 and 27/38 which condemn all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights.

380. The Special Rapporteur also refers to the dispersal of an assembly in My An Hun B village in February 2014 (VNM 4/2014). He reminds the authorities that protestors seek to convey opinions and, very often, challenge norms, and that while their right may be

restricted in certain limited circumstances, hindering road traffic does not constitute a valid reason to curtail the right to assemble. Since it largely relies on the fundamental use of public space, the right to assemble can, among other things, cause challenges such as disruptions in traffic flows. However, the Special Rapporteur, stresses that the right should always be promoted and protected by the State, in accordance with its international obligations. In this connection, the Special Rapporteur warns against restrictions used in a manner that impairs the right to assembly and refers to the General Comment No. 31 of the Human Rights Committee on the nature of the general legal obligation imposed on States parties to the International Covenant on Civil and Political Rights, which states that "where such restrictions are made, States must demonstrate a necessity and may only take measures that are proportionate to the legitimate aims in order of ensuring the continuous and effective protection of Covenant rights" (CCPR/C/21/Rev.1/Add.13, paragraph 6).

381. The Special Rapporteur takes this opportunity to remind the authorities about the 15 recommendations regarding the rights to freedom of peaceful assembly and of association accepted by the State of Viet Nam during its review by the Universal Periodic Review in January 2014, which, among others, call upon the State to create conditions favourable to the realization of freedom of association and to fully guarantee the freedom of assembly, online as well as offline, to all its citizens (A/HRC/26/15, paragraphs 143.165 and 143.171).

Country visit

382. In reference to the country visit requests he sent in February 2014, the Special Rapporteur would like the Government to take note of his desire to carry out a country visit to Viet Nam in the framework of his mandate. He trusts that such a visit would allow him to examine on site the issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favourably his requests for visits.

VI. Europe and Central Asia region

383. During the present reporting period, the Special Rapporteur sent 28 communications to countries in the Europe and Central Asia region. Almost half of these communications were follow-ups to cases previously brought to the attention of the State concerned and a further 10 others related to draft laws or legislation, which were considered as possible breaches of the rights to freedom of association and assembly. He note of the response rate of 79 per cent for the region.

384. The Special Rapporteur reiterates the importance of taking all necessary steps to secure the rights to freedom of peaceful assembly and association in all the countries in the Europe and Central Asia region. In particular, he notes the challenges faced by civil society and other stakeholders in exercising their right to associate freely.

385. On one hand, he recalls the frequency with which members of associations are the targets of threats, acts of intimidation or violence, including enforced disappearances, arbitrary arrests, detention, torture, media smear campaigns or travel bans, in retaliation for their undertaking their legitimate work. It is with great conviction that he reminds States of their duty to take positive measures to establish and maintain an enabling environment for individuals to enjoy their rights and operate without fear.

386. On the other hand, the Special Rapporteur is discouraged by the increasing legislative barriers to the free exercise of the right to associate. Despite the fact that States have recognized unanimously and on various occasions that resources are necessary for the existence and sustainable operations of associations, he continues to witness a worrying tendency to discriminate against and stigmatize organizations that receive foreign funding. He concludes that these practices, instead of seeking further transparency and increasing accountability as they often claim, aim to add supplementary bureaucratic obstacles and exacerbate negative perceptions of the role of associations, and thus violate the international human right commitments of States that have agreed to them.

387. In connection with the right to peaceful assembly, the Special Rapporteur reiterates that while States' do not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs, it has a positive obligation to ensure the existence of an enabling environment for civil society, in terms of enjoyment of this right, so that it may express itself freely and without fear. He is concerned by the various reports from the Europe and Central Asia countries referring to vague legal provisions that allow for arbitrary interpretations and undue restrictions on the freedom of assembly. During the period under review, he witnessed with increasing worry the way in which security considerations were used as a justification to curb the right to assemble by equating peaceful protest movements with threats to public order and granting sweeping powers to security forces to dissolve them and to judicial authorities to criminalize protestors.

388. The Special Rapporteur reminds the States that the definitions and restrictions existing in international law are sufficient and the only legitimate grounds to regulate the right to peaceful assembly. Therefore, he warns against regulations and practices designed to silence, intimidate and harass those who wish to collectively express their opinions through public assemblies.

Azerbaijan

389. JUA 15/08/2014. Case no: AZE 5/2014. State reply: None. Alleged arrest of a human rights lawyer and freezing of the accounts of at least nine non-governmental organizations.

390. JUA 12/08/2014. Case no : AZE 4/2014. State reply: None. Allegations of surveillance, a travel ban, arbitrary arrests, interrogations, charges brought against and detention of three members of associations working on human rights.

391. JAL 09/05/2014. Case no : AZE 3/2014. State reply: None. Alleged questioning at the airport and subsequent restriction of movement of two human rights defenders, and ongoing questioning of members of the Azerbaijani Institute for Peace and Democracy.

392. JAL 06/05/2014. Case no: AZE 2/2014. State reply: 15/07/2014 (response). Allegations of charges faced by three human rights defenders in the aftermath of the 2013 presidential elections.

393. PR 19/08/2014. "Persecution of rights activists must stop – UN experts call on the Government of Azerbaijan"

394. PR 09/05/2014. "UN Experts urge Azerbaijan to drop charges against human rights defenders"

Observations

Responses to communications

395. The Special Rapporteur takes notes of the Government's reply to one of his communications in period under consideration. He regrets that three other communications have not received a reply to date and recalls that responses to his communications as an important part of the cooperation of Governments, in accordance with Human Rights resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). He calls upon the Government to continue engaging with his mandate on these crucial issues.

Environment in which these rights are exercised

396. The Special Rapporteur expresses his continued concern over the tendency to prosecute prominent human rights defenders in Azerbaijan, which he highlighted in a joint Press Release on 19 August 2014 (PR 19/08/2014). He notes increasing incidents of surveillance, interrogation, arrest, sentencing on the basis of trumped-up charges, assets-freezing and ban on travel of the activists in the country and expresses alarm at the upsurge in the politically-motivated repression of activists in reprisal for their legitimate work in documenting and reporting human rights violations. He recalls that authorities have legal obligations under international human rights law to guarantee that everyone in Azerbaijan can exercise their rights to peaceful assembly and association without undue interference.

397. The Special Rapporteur reiterates his concern about the arrest of Mr. Intigam Aliyev, a human rights lawyer and head of the Legal Education Society, a human rights organization that appears to be the result of his organization's peaceful work promoting and protecting human rights (AZE 5/2014). In view of Mr. Aliyev's pre-trial detention, the Special Rapporteur remains similarly concerned about the physical integrity and safety of civil society activists who work on human rights in Azerbaijan in light of the increased targeting of human rights defenders and the organizations to which they are associated. He requests the Government to keep him informed about the current status of the case and measures put in place in Azerbaijan to ensure that human rights defenders, and in particular lawyers, are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

398. In relation to the case of Ms. Leyla Yunus, director of the Azerbaijani Institute of Peace and Democracy, and Mr. Arif Yunusov, a scholar and head of Conflict Studies in the Institute of Peace and Democracy, as well as Mr. Rasul Jafarov, the coordinator of Art of Democracy, the Special Rapporteur expresses concern that the violations against them may be linked to their legitimate human rights activities (AZE 4/2014). An earlier communication detailed reports of questioning, searches and restrictions of movement of Ms. Leyla Yunus and Mr. Arif Yunusov as well as the confiscation of equipment and material from their organization, the Institute of Peace and Security, and the deportation and detention on charges of treason and espionage of journalist Mr. Rauf Mirkadyrov (AZE 3/2014). The Special Rapporteur seeks up-to-date facts concerning the status of these cases and requests information about what actions have been taken to ensure that the legitimate right to freedom of association is respected and that the physical and psychological integrity of those exercising this right is guaranteed in the country.

399. While the Special Rapporteur takes note of the Government's response on 15 July 2014 to his communication sent on 6 May 2014 (AZE 2/2014), he reiterates his concerns over the situations of Mr. Anar Mammadli and Mr. Bashir Suleymanli of the Azerbaijani Election Monitoring and Democracy Studies Centre, and Mr. Elnur Mammadov of the Volunteers of International Cooperation Public Union. He recalls that their convictions appear to be in retaliation for their legitimate work in documenting alleged widespread irregularities and human rights violations around the presidential elections of 9 October

2013. The Special Rapporteur repeats his calls to the authorities to immediately release Mr. Mammadli, Mr. Suleymanli and Mr. Mammadov, and reinstate their rights.

Negative obligation of the State to not to unduly interfere with these rights

400. In relation to the freezing of the accounts of at least nine non-governmental organizations (AZE 5/2014), the Special Rapporteur recalls that the ability for associations to access funding and resources is an essential and vital part of the right to freedom of association (A/HRC/20/27, paragraphs 67). He invokes article 13 of the Declaration on Human Rights Defenders which states that "everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration". The Special Rapporteur interprets this to mean that organizations should be able to use their available resources to undertake their activities and views the freezing of accounts as impeding these activities (A/HRC/23/39, paragraph 17). He recalls that the State committed to protecting and promoting the rights set forth in international law and standards, and in that regard, looks forward to receiving further information on the outcome of the proceedings and investigations related to the judicial freeze of the nine non-governmental organizations in this case.

401. Concerning the registration of Mr. Jafarov's organization, Human Rights Club, and the foreign funding it received, he recalls that a regime of notification to establish an association should be in force and associations should be established following a process that is simple, easily accessible and non-discriminatory (AZE 4/2014). If registration of an association is denied, the corresponding registrations bodies should provide a comprehensive and timely written explanation and the associations should be able to challenge any rejection before an impartial and independent court. He stresses that any associations, including unregistered ones, should be permitted to function freely, with their members operating in an enabling and safe environment (A/HRC/23/39, paragraph 95 and 96).

Country visits

402. The Special Rapporteur hopes to be able to honour the invitation of the Government of Azerbaijan to conduct an official visit to the country in the near future, within the framework of his pre-existing mandated activities, and reiterates his appreciation to the Government for its collaboration in relation to this request.

Cyprus

403. JAL 05/06/2014. Case no: CYP 3/2014. State reply: 05/08/2014. Alleged acts of intimidation and reprisals against a human rights defender for his cooperation with the United Nations Committee Against Torture.

Observations

Responses to communications

404. The Special Rapporteur thanks the Government of Cyprus for the detailed reply to his joint communication, indicating that the Executive Director of Action for Support, Equality and Antiracism was duly informed of the warrant issued against him by written notice in 2007, 2013 and orally in two occasions in 2014 (CYP 3/2014). In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which the right to freedom of association is exercised

405. The special Rapporteur notes with appreciation the launching of specialized human rights courses to sensitize the Cyprus Police Academy and the existing independent mechanisms for monitoring and investigating human rights' violations. The Special Rapporteur reminds the Government of its obligation to promote and protect a vibrant civil society, and to ensure a conducive environment to the free exercise of the right of association; a right enshrined in the International Covenant on Civil and Political Rights, ratified by Cyprus on 2 April 1969.

Hungary

406. JAL 16/07/2014. Case no: HUN 1/2014. State reply: 15/09/2014. Alleged undue interference and stigmatization of human rights organizations connected to the European Economic Area (EEA) and Norwegian Financial Mechanism.

Observations

Responses to communications

407. The Special Rapporteur thanks the Government of Hungary for its detailed response to his communication on the alleged undue interference with the right of associations receiving funds from the Norway Civil Grants (HUN 1/2014). In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Negative obligation of the State to not to unduly interfere with the right to freedom of association

408. While the Special Rapporteur duly notes the structural changes of development policy, including the transfer to the Prime Minister's Office of State-owned non-profit organization Széchenyi Program Office, he remains concerned about the seemingly discretionary attributions given to the Government Audit Office, which through its actions may obstruct and stigmatize the work of associations operating in the country. In this context, he reminds the authorities of their obligations to promote and protect the rights of associations to carry out their activities free from fear of threats or acts of intimidation and harassment of any sort.

409. The Special Rapporteur recalls that the State committed to protect and promote rights set forth in international law and standards, and in that regard, looks forward to receiving further information on the outcome of the audits of associations benefitting from funds from the Norway Civil Grants. He stands ready to provide technical assistance to ensure that the State's normative framework complies with international human rights norms and standards governing freedoms of association and assembly.

Country visit

410. The Special Rapporteur thanks the Government for its invitation to carry out a visit to the country during the second half of January 2016. He hopes to revert back to the authorities in the briefest delays with a proposal for dates for this visit, within the framework of his other mandated activities for 2016, and reiterates his appreciation to the Government for its collaboration with the mandate.

Kazakhstan

411. PR 28/01/2015. "UN expert warns Kazakhstan against using 'stability' as excuse to curtail rights, voices concern at surveillance of sources"

412. PR 27/01/2015. "Statement by the Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the Republic of Kazakhstan"

413. PR 16/01/2015. "Kazakhstan: first official visit by UN expert on freedoms of peaceful assembly and association"

Country visit

414. The Special Rapporteur thanks the Government of the Kazakhstan for inviting him to undertake an official country visit from 19 to 27 January 2015. He recalls the laudable cooperation of the Government during his visit and commends the Government for extending a standing invitation to all Special Procedures' mandate holders. The Special Rapporteur reiterates that he stands ready to provide any support the authorities may require to implement the recommendations he put forward in his country visit report A/HRC/29/35/Add.2.

Kyrgyzstan

415. JAL 23/09/2014. Case no: KGZ 5/2014. State reply: None. Allegations concerning amendments to the laws governing non-profit organizations, which, if adopted without further changes, may unduly restrict the right to freedom of association.

416. JAL 06/05/2014. Case no: KGZ 1/2014. State reply: 21/04/2015. Alleged discriminatory consequences and negative impact on the peaceful and legitimate work of human rights defenders of the draft Bill "On the formation of a positive attitude toward non-traditional forms of sexual relations".

Observations

Responses to communications

417. The Special Rapporteur thanks the Government of Kyrgyzstan for its reply to the communication sent on 6 May 2014, indicating that the objective of the Bill "On introducing additions and changes to certain legislative acts in the Kyrgyz Republic" are to ensure safety and protection of, inter alia, the traditional family (KGZ 1/2014). However, he regrets that the authorities have not replied to the communication on 23 September 2014 and urges them to provide a detailed response to the questions raised in his letter (KGZ 5/2014), in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Draft law "On introducing additions and changes to certain legislative acts in the Kyrgyz Republic"

418. The Special Rapporteur reiterated his concern that the draft law "On introducing additions and changes to certain legislative acts in the Kyrgyz Republic" may arbitrarily restrict the right to freedom of association and obstruct the legitimate work of several organizations that carry out human rights activities and provide essential humanitarian, cultural and social services in the country (KGZ 5/2014). Article 1 of this draft, which aims to amend three existing laws, introduces an additional obligation for non-commercial

organizations established in Kyrgystan, involved in "political activities" and receiving funding from foreign sources, to register as a "foreign agent" and is vague in its definition of political activities. That article further grants the Ministry of Justice the power to conduct, inter alia, scheduled and unscheduled inspections of the concerned organizations, request and check any internal documents, and to suspend their activity for up to 6 months without waiting for a court decision, in case an organization fails to file an application for inclusion in the register of non-commercial organizations acting as a "foreign agent".

419. The Special Rapporteur recalls that any association "should have the right to seek and secure funding and resource from domestic, foreign, and international entities" (A/HRC/20/27 para. 68). The Special Rapporteur reminds the State that it has an obligation not to obstruct the exercise of the right to freedom of association. This responsibility includes guaranteeing that both registered and unregistered associations can seek and secure funding and resources without discrimination (A/HRC/20/27, paragraphs 64 and 68). Moreover, he notes that the requirement to organizations register a "foreign agents" could stigmatize civil society organizations and human rights defenders, as well as deter them from seeking resources to undertake their activities. The Special Rapporteur reminds the Government of its obligation to ensure that civil society, including human rights defenders, in Kyrgyzstan can carry out their legitimate work free from undue restrictions.

Draft Bill "On the formation of a positive attitude toward non-traditional forms of sexual relations"

420. The Special Rapporteur takes note of the Government's reply on 21 April 2015 and expresses his grave concern about the draft Bill "On the formation of a positive attitude toward non-traditional forms of sexual relations" and the discriminatory consequences and negative impacts it could have on the peaceful and legitimate work of human rights defenders (KGZ 1/2014). This Bill would amend several pieces of legislation, including the Law on Peaceful Assembly, and introduce a range of criminal and administrative sanctions on persons contributing towards the creation of "a positive attitude toward non-traditional sexual orientation." The Special Rapporteur reiterates his concern at the detrimental effect of the Bill on the peaceful and legitimate work of human rights defenders in Kyrgyzstan who are working to protect and promote the rights of the LGBTI community. He reminds the States of its obligation to safeguard the human rights of LGBTI people is well established in international human rights law based on Universal Declaration of Human Rights, which, in article 1, unequivocally reads: "All human beings are born free and equal in dignity and rights." (A/HRC/26/29, paragraph 20). He also recalls the concerns raised by the Human Rights Committee regarding reports of violence against LGBTI people by both State and non-State actors, and the failure of the authorities to address such violence in violation of the rights to non-discrimination and equality set forth in the International Covenant on Civil and Political Rights, acceded by Kyrgyzstan on 4 October 1994 (CCPR/C/KGZ/CO/C, paragraph 9).

421. The Special Rapporteur reiterates that general laws governing assemblies may have a disproportionate impact on certain groups and some of the most prominent examples include "public morality" laws that have been used against those promoting LGBTI rights (A/HRC/26/29, paragraphs 29, 30 and 31). He denounces regulations and practices designed to silence, intimidate and harass those who promote the human rights of LGBTI people through public assemblies and seeks to know what measures have been taken to ensure that human rights defenders, including civil society and activists and particularly those working on LGBTI issues, can operate in a safe and enabling environment, and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

Country visits

422. The Special Rapporteur hopes to be able to honour the invitation of the Government of Kyrgyzstan to conduct an official visit to the country in the near future, within the framework of his pre-existing mandated activities, and reiterates his appreciation to the Government for its collaboration in relation to this request.

Republic of Moldova (the)

423. JUA 10/02/2015. Case no: MDA 1/2015. State reply: 30/03/2015. Alleged risk of dissolution of two religious associations.

424. JUA 18/06/2014. Case no: MDA 1/2014. State reply: 16/09/2014, 18/08/2014. Alleged detention and ill-treatment of a human rights defender.

Observations

Responses to communications

425. The Special Rapporteur thanks the Government for its response to the communication sent on 10 February 2015 on the alleged risk of dissolution of the religious associations Falun Dafa and Qigong Falun Gong Moldova and asks it to keep him informed about the current status of the deliberation of the Supreme Court regarding their possible dissolution (MDA 1/2015). Moreover he thanks the authorities for their response to the communication sent on 18 June 2014 in relation to the alleged detention of a human rights defender (MDA 1/2014). He is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Negative obligation of the State to not to unduly interfere with the right to freedom of association

426. In relation to the case regarding the alleged risk of dissolution of Falun Dafa and Qigong Falun Gong Moldova, the Special Rapporteur remains concerned about the decision of the Supreme Court to label the spiritual emblem of these associations, a sauwastika symbol, as extremist despite the legitimate nature of their activities and the fact that this symbol has various meanings and is commonly used in many Asian religious traditions (MDA 1/2015).

427. The Special Rapporteur reminds the State that the Government has an obligation not to obstruct the exercise of the right to freedom of association. This important responsibility includes protecting associations that pursue objectives and employ means in accordance with international human rights law from undue interference and guaranteeing that they benefit from international legal protection (A/HRC/20/27, paragraph 64).

Positive environment in which the right to freedom of association is exercised

428. In connection with the case of alleged deprivation of liberty, ill-treatment and lack of judicial remedies of Mr. Andrey Rezanov, chair of the non-governmental organization Fair Justice, in light of his human rights activities, the Special Rapporteur is grateful for the swift efforts of the officials to collaborate with the relevant authorities in the Transnistrian region of the Republic of Moldova (MDA 1/2014). He takes note of the contextual complexity and asks the authorities to keep him informed of the investigations of the European Court of Human Rights at the earliest opportunity. He remains seriously concerned about the grave nature of the alleged violations of Mr. Rezanov's fundamental rights and reminds the Government to take note, in relation to these allegations, of the

Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity (A/HRC/RES/16/23, paragraph 7b). Moreover, he calls upon the relevant authorities to ensure a conducive environment to the free exercise of the right of association; a right enshrined in the International Covenant on Civil and Political Rights, acceded by the Republic of Moldova on 26 January 1973.

Russian Federation (the)

429. JUA 14/11/2014. Case no: RUS 9/2014. State reply: 17/12/2014. Alleged court application for the closure of an umbrella human rights organization and defamation of an affiliated non-governmental organization.

430. JAL 25/09/2014. Case no: RUS 7/2014. State reply: 24/11/2014. Alleged threats, deportation and stigmatization of members of a non-governmental organization that carries out political activities and receives foreign funding for not being registered as foreign agents.

431. JUA 12/08/2014. Case no: RUS 6/2014. State reply: 06/10/2014. Alleged attack, smear campaign, stigmatization and acts of intimidation against members of non-governmental organizations who have their offices in the Human Rights House Voronezh.

432. JAL 20/06/2014. Case no: RUS 5/2014. State reply: 25/08/2014. Alleged enforcement of the Law on Non-commercial Organizations which Carry Functions of Foreign Agents.

433. JAL 31/03/2014. Case no: RUS 4/2014. State reply: 14/07/2014. Alleged torture in detention of a human rights activist and stigmatisation of his lawyer.

434. JUA 07/03/2014. Case no: RUS 3/2014. State reply: 16/07/2014. Alleged enforced disappearance of an environmental rights defender.

Observations

Responses to communications

435. The Special Rapporteur thanks the Government of the Russian Federation for its detailed and timely replies to all the communications he sent during the reporting period. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Law on Non-commercial Organizations which Carry Functions of Foreign Agents

436. The Special Rapporteur acknowledges the replies to the communications sent in June, September and November (RUS 5/2014, RUS 7/2014 and 9/2014) indicating that the Law on Non-commercial Organizations which Carry Functions of Foreign Agents (the Law) appeared to violate fundamental rights and freedoms, including the right to freely associate. He takes note that the provisions of the Law are based on a presumption that non-profit organizations act fairly and within the law. However, he remains gravely concerned about the use of overly broad definitions to single out associations that allegedly carry out political activities and receive foreign funding and is worried about the targeting of human rights organizations that engage with United Nations Human Rights mechanisms. In this context, he shares the observation of the Human Rights Committee that considers the definition of "political activity" in the Law as very broadly construed, allowing authorities

to register a wide range of non-governmental organizations as "foreign agents", without their consent or a court decision (CCPR/C/RUS/CO/7, paragraph 22).

437. In addition, the Special Rapporteur warns against justifications for excessive intrusive methods based on the need for greater transparency within the civil society sector. In this regard, the obligation for associations to report on all funds received from foreign sources is disproportionate as it exceeds the interest pursued (A/HRC/23/39, paragraphs 35 and 36). The Special Rapporteur reminds the State that it has a negative obligation not to obstruct the exercise of the right to freedom of association. This important responsibility includes guaranteeing that both registered and unregistered associations can seek and secure funding and resources without discrimination (A/HRC/20/27, paragraphs 64 and 68). Moreover, in his opinion, the requirement to reveal foreign funding sources could stigmatize civil society organizations and human rights defenders, as well as deter them from seeking resources to undertake their activities; the closure of the Anti-Discrimination Centre Memorial is a stark example of this interference. The Special Rapporteur reminds the Government of its obligation to ensure that civil society, including human rights defenders, in the Russian Federation can carry out their legitimate work free from undue restrictions.

Environment in which the right to freedom of association is exercised

438. The Special Rapporteur reiterate his concern at the physical attack and intimidation of, as well as stigmatization and smear media campaigns against human rights defenders (RUS 6/2014 and RUS 4/2014). He takes note of the reply dated 6 October 2014 indicating that a range of investigative measures had been taken to identify the perpetrators of the physical assault against Mr. Andrey Yurov, honorary president of the International Youth Human Rights Movement that has its offices in the Human Rights House Voronezh. He requests the Government to keep him informed on the progress made into these investigations at the earliest possible time. In relation to the review conducted by the Central Internal Security Department of the Ministry of Internal Affairs of the Russian Federation into the alleged torture in detention of Mr. Ruslan Kutayev, the Special Rapporteur reminds the State of its responsibility to conduct thorough and impartial investigations by independent bodies into allegations of torture and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and updated set of principles for the protection of human rights through action to combat impunity (A/HRC/RES/16/23, paragraph 7b). With regard to the case of the environmental human rights defender, Mr. Evgeny Vitishko (RUS 3/2014), the Special Rapporteur thanks the Government for clarifying his whereabouts and stresses that it is responsible for providing accurate information to the families on the detention of people and their place of detention, in accordance with the United Nations Declaration on the Protection of All Persons from Enforced Disappearance (article 10). He remains concerned about the Mr. Vitishko's probationary conditions, namely the district travel ban, that seem to aim to curtail his work promoting and protecting environmental human rights and calls upon the authorities to ensure a conducive environment to the free exercise of the right of association, a right enshrined in the International Covenant on Civil and Political Rights, ratified by the Russian Federation on 16 October 1973.

439. Moreover, the Special Rapporteur seizes the opportunity of this report to stress the concerns expressed in his last year Observations' report (A/HRC/26/29/add.1) and reiterated by the Human Rights Committee in March 2015 (CCPR/C/RUS/CO/7, paragraph 10) about, inter alia, reports of discrimination, hate speech and violence against LGBTI people and activists in violation of their rights to freedom of peaceful assembly, and laws banning "promotion of non-traditional sexual relations to minors", which obstruct,

intimidate and stigmatize the work of LGBT organizations, among other undesirable effects.

Country visit

440. In reference to the country visit requests he sent in 2011, 2012 and 2013, the Special Rapporteur would like to Government to take note of his desire to carry out a country visit in the framework of his mandate. He hopes to receive a positive reply from the Government, in the spirit of the aforementioned resolutions, which call upon States to consider favourably his requests for visits.

Serbia

441. JUA 28/07/2014. Case no: SRB 1/2014. State reply: 11/12/2014, 18/11/2014. Alleged attacks, threats and acts of intimidation against members of a non-governmental organization.

Observations

Responses to communications

442. The Special Rapporteur thanks the Government of Serbia for its detailed reply to the joint urgent appeal in relation to the alleged threats and physical attacks against members of the non-governmental organization the Women in Black for their active role in commemorating the Srebrenica genocide, in the first half of 2014. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

443. While he takes note of the ongoing judicial and misdemeanours proceedings against the former spokesperson of the Anti-Terrorist Unit of the Ministry of Interior for the alleged threats made against Ms. Staša Zajovic, the co-founder of Women in Black, the Special Rapporteur requests up-to-date facts and actions taken to ensure that the legitimate rights to freedom of association and peaceful assembly are respected and that the physical and psychological integrity of those exercising this right is guaranteed in the country. In this connection, he also requests the country to endeavour to guarantee that investigations are conducted promptly to ensure the accountability of any person responsible for the alleged violations, avoid repetition, provide full redress to the victims and send a positive message to civil society, as soon as possible. Moreover, he urges the Government to take all necessary steps to secure the rights to freedom of peaceful assembly and of association as per articles 21 and 22 of the International Covenant on Civil and Political Rights acceded to by Serbia on 12 March 2001.

444. With regard to the attacks against the participants of a peaceful gathering organized by the Women in Black at Valjevo's town square on 8 July 2014, the Special Rapporteur stresses again that States have a positive obligation to actively protect these assemblies, including from individuals or groups who aim to disrupt them (A/HRC/20/27, paragraph 33).

Spain

445. JAL 17/02/2015. Case no: ESP 3/2015. State reply: 19/03/2015. Alegaciones relativas a varias disposiciones de los proyectos de reforma del Código Penal en materia de

terrorismo que no estarían en conformidad con los estándares internacionales de derechos humanos, en particular los derechos a la libertad de expresión y de reunión pacífica.

446. JAL 13/02/2015. Case no: ESP 4/2015. State reply: N/A. Respuesta a un pedido de clarificación por parte del Gobierno de España el 19 marzo de 2015 (seguimiento a ESP 1/2015).

447. JAL 05/02/2015. Case no: ESP 1/2015. State reply: 19/03/2015; 06/02/2015. Alegaciones relativas a las disposiciones del Proyecto de Ley Orgánica de Protección de la Seguridad Ciudadana (PLOPSC) en el Pleno del Congreso de los Diputados el 11 de diciembre de 2014, las cuales limitarían de forma desproporcionada e innecesaria el ejercicio de los derechos a las libertades de expresión, opinión y reunión pacífica y presupondría la posibilidad de realizar expulsiones "en caliente" en Melilla y Ceuta.

448. JAL 10/03/2014. Case no: ESP 2/2014. State reply: 08/07/2014. Alegaciones de ataque violento contra la sede de la organización SOS Racismo Madrid.

449. PR 23.02.2015. "Dos proyectos de reforma legal socavan los derechos de manifestación y expresión en España – Expertos de la ONU"

Observaciones

Respuestas a comunicaciones

450. El Relator Especial agradece al Gobierno de España las respuestas detalladas a todas las comunicaciones enviadas durante el período del presente informe. Considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los Gobiernos con su mandato, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. En este sentido, se congratula del compromiso adoptado por las autoridades españolas.

Leyes que regulan los derechos de reunión pacífica y de asociación

451. Con respecto a las comunicaciones en las cuales el Relator Especial expresaba preocupación por la inminente consideración del Proyecto de Ley Orgánica de Protección de la Seguridad Ciudadana, así como el proyecto de reforma del Código Penal en sus secciones relativas a delitos de terrorismo y de orden público (ESP 1/2015, ESP 3/2015), lamenta que a pesar de sus acciones conjuntas con otros expertos independientes de las Naciones Unidas exhortando a España rechazar aquellos proyectos de reformas, el país los haya adoptado considerando unas enmiendas muy limitadas. El Relator Especial disiente con los argumentos esgrimidos por el Estado en sus respuestas y reitera las mismas preocupaciones expresadas con anterioridad. En su opinión, la actual Ley Orgánica 4/2015 de Protección de la Seguridad Ciudadana, ya sea por sus definiciones ambiguas de ofensas o bien penalidades excesivas por delitos o aun transfiriendo ofensas del plano criminal al administrativo exceptuándolas de ciertas garantías legales como la presunción de inocencia, incrementa los riesgos de interpretaciones arbitrarias de la norma y criminalización de la protesta social, respectivamente. Asimismo, al Relator Especial le preocupa seriamente que definiciones amplias y con alcances imprecisos conlleven a la autocensura, una de las prácticas sociales más regresivas para el goce de derechos y libertades fundamentales.

452. De similar forma, considera que la Ley Orgánica 1/2015 en la sección relativa a los delitos de desórdenes públicos y la Ley Orgánica 2/2015 en materia de delitos de terrorismo, tales como fueron adoptadas, permiten márgenes de interpretación excesivamente amplio que podrían resultar en abusos y violaciones potenciales de los derechos humanos. Al Relator Especial le preocupa particularmente que se vulnere la propia esencia del derecho de manifestación al agravar penas en supuestos de manifestaciones pacíficas y castigar a quienes difundan públicamente mensajes que inciten

a la comisión de delitos de alteración del orden público. A su vez, le preocupa que se utilicen consideraciones de seguridad para invalidar el derecho de reunión pacífica. Recuerda que los Estados no deberían recurrir a prácticas derogativas en el ámbito de este derecho para luchar eficazmente contra el terrorismo (A/HRC/20/27, párrafo 21).

453. En este contexto, hace nuevamente hincapié en el hecho de que la obligación de los Estados es la de proteger activamente y promover la celebración de reuniones pacíficas y para ello debe existir una presunción favorable del rol indispensable que aquéllas desempeñan en las sociedades democráticas. Por lo tanto, urge al Estado realizar las modificaciones necesarias a la luz de las normas y estándares internacionales, incluido el Pacto Internacional de Derechos Civiles y Políticos cuyas pautas España se comprometió a cumplir y promover al ratificarlo el 27 de abril de 1977 y pone a su disposición sus servicios de asesoramiento y asistencia técnica.

Tajikistan

454. JAL 03/12/2014. Case no: TJK 6/2014. State reply: 19/01/2015. Proposed amendments to the Law on Public Associations.

455. JUA 23/06/2014. Case no: TJK 4/2014. State reply: 21/07/2014. Alleged arrest, detention and enforced disappearance of a doctoral student and journalist.

Responses to communications

456. The Special Rapporteur thanks the Government of Tajikistan for its reply to the communications sent during the reporting period. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Law on Public Associations

457. The Special Rapporteur notes with appreciation the response provided by the Government in relation to The draft amendments to the Law on Public Associations of 12 May 2007, which allow for new inspection procedures for public associations and new registration and authorization mechanisms for associations receiving foreign funding (TJK 6/2014). He recalls his concern that these amendments place additional burdens on public associations and seem to contradict the State's obligation to establish and maintain a conducive environment for the free operations of associations and could undermine legitimate human rights activities in Tajikistan. Moreover, he recalls the observation of the Committee on Economic, Social and Cultural Rights that advises the Government of Tajikistan to consider civil society's and other stakeholders' comments and recommendations in the review of the draft amendments to this law in order to strengthen the role of civil society in fostering economic, social and cultural rights (E/C.12/TJK/CO/2-3, paragraph 10).

458. He notes with concern that legislation and legal frameworks governing the ability of associations to seek, receive and use resources may have a substantial impact on the exercise of the right to freedom of association. Any restrictions must be in line with international human rights law, which provides that any limitations must be necessary and proportionate to a pressing social need. In his view, the legal requirement to account systematically for funding from foreign sources and to apply to a new registry to receive and use foreign funding would not meet this test of necessity and proportionality.

459. The Special Rapporteur recalls that any association "should have the right to seek and secure funding and resource from domestic, foreign, and international entities" (A/HRC/20/27 para. 68). The Special Rapporteur reminds the State that it has an obligation

not to obstruct the exercise of the right to freedom of association. This responsibility includes guaranteeing that both registered and unregistered associations can seek and secure funding and resources without discrimination (A/HRC/20/27, paragraphs 64 and 68). The Special Rapporteur reminds the Government of its obligation to ensure that civil society, including human rights defenders, in Tajikistan can carry out their legitimate work free from undue restrictions.

Environment in which these rights are exercised

460. In relation to the case of Mr. Alexander Sodiqov, the Special Rapporteur reiterates concerns about his alleged arbitrary arrest, incommunicado, detention and enforced disappearance (TJK 4/2014). He expresses concern that the acts perpetrated against him may be due to his human rights work and his legitimate and peaceful exercise of his right to the freedom of association in the context of his research on conflict resolutions and other topics in Tajikistan. He is also concerned about the chilling effect that his arrest may have on other students, scientists and researchers, which may adversely affect the future exercise of the right to the freedom of association in Tajikistan. He notes with appreciation the decision of the authorities to release Mr. Sodiqov on bail, however, expresses concerns that the investigation into the case against him remains ongoing. He stresses that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline (A/HRC/RES/24/5, operational paragraph 2). Moreover, he reaffirms that the rights to freedom of peaceful assembly and of association are crucial cornerstones for the possible emergence and sustainability of effective democratic systems.

461. The Special Rapporteur would be grateful for more information concerning the legal grounds for the arrest and detention of Mr. Sodiqov and information on any investigation or inquiries related to his case.

Turkey

462. JUA 16/01/2015. Case no: TUR 1/2015. State reply: 19/02/2015. Alleged arbitrary arrest and detention of high ranking media personnel, directors and producers of popular television programs and police officers.

463. JAL 27/03/2014. Case no: TUR 3/2014. State reply: 23/04/2014. Alleged restrictions on the right to freedom of expression and opinion in the context of political debate and electoral processes in Turkey.

Observations

Responses to communications

464. The Special Rapporteur is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). He thanks the Government of Turkey for the detailed reply to the communication sent on 16 January 2015 (TUR 1/2015), indicating that the Istanbul Chief Prosecutor's Office was in the process of investigating 37 individuals, including Mr. Ekrem Dumanli, editor-in-chief of the Zaman newspaper, and Mr. Hidayet Karaca, general manager of the Samanyolu Media Group, for allegedly manipulating information and conveying opinions to stigmatize a group of individuals as belonging to a terrorist organization. The Special Rapporteur asks the Government to keep him informed on the progress made into the investigations at the earliest opportunity. Moreover, he thanks the authorities for the response to the communication sent on 27 March 2014 in relation to alleged restrictions on fundamental rights in the context of elections (TUR 3/2014).

Law regulating the Internet

465. In relation to the Law on Regulations on the Internet and Combatting Crimes Committed by Means of Publication through Internet, No. 5651, the Special Rapporteur notes with appreciation that the Constitutional Court annulled the decision to block access to the Twitter website on 2 April 2014 after a series of court rulings objecting the measure as unconstitutional and in violation of international human rights laws and standards (TUR 3/2014). He calls on the Turkish Government to take all the necessary steps to guarantee full compliance of its legislation with the State's international human rights obligations and warns it against possible vague or ambiguous provisions that allow for arbitrary interpretations and restrictions to the right to associate online.

466. The Special Rapporteur calls on the authorities to guarantee an unhampered access to the Internet and echoes Human Rights Council resolution 26/13 on the promotion, protection and enjoyment of human rights on the Internet. Moreover, he reminds the Government of its obligation to promote and protect a vibrant civil society, and to ensure a conducive environment to the free exercise of the right of association; a right enshrined in the International Covenant on Civil and Political Rights, ratified by Turkey on 23 September 2003.

Country visit

467. The Special Rapporteur thanks the Government for its invitation to carry out a visit to the country during the second half of 2016. He hopes to respond to the authorities in the briefest delays with a proposal for dates for this visit, within the framework of his other mandated activities for 2016, and reiterates his appreciation to the Government for its collaboration with the mandate.

United Kingdom of Great Britain and Northern Ireland (the)

468. JUA 21/05/2014. Case no: GBR 2/2014. State reply: 10/07/2014. Alleged imminent risk of forced return from the United Kingdom to Bahrain, and of torture or ill-treatment in detention upon return.

Observations

Responses to communications

469. The Special Rapporteur thanks the Government of the United Kingdom for its reply to the communication sent during the reporting period, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) that call upon the State to respond promptly to his communications.

Non-refoulement in the context of the right to peaceful assembly

470. In relation to the case of Mr. X, the Special Rapporteur reiterates his concern that this individual faces serious risk of torture or ill-treatment in detention over his alleged involvement in anti-Government Protests should he be returned to Bahrain. Mr. X has been detained and tortured three times in Bahrain and sentenced in absentia on charges of "illegal gathering with the intention of inciting violence," akin to the charge brought against hundreds of protestors in Bahrain since 2011.

471. The Special Rapporteur takes note of the information provided by the Government that Mr. X remains in the United Kingdom and has not been deported, as of the date of the reply, however, he regrets that no other information is provided with regards to the queries in the communication. In particular, he would seek to know the results of any investigations

relevant to the case of forcible refoulement of Bahraini national to Bahrain. He would also request that the Government provide detailed information about what kind of monitoring is conducted to ensure that Bahraini asylum seekers who have not been granted asylum in the United Kingdom and have returned to Bahrain, were not subject to arbitrary detention, torture or other ill-treatment.

472. The Special Rapporteur refers to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the United Kingdom is a party. Article 3 provides that "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture," which, in the case of Mr. X, would be reportedly due to his involvement in peaceful protests in Bahrain. It further provides that ""[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." Moreover, he calls on all States, including the United Kingdom to take all necessary steps to secure the rights to freedom of peaceful assembly and association as per article 21 and 22 of the International Covenant on Civil and Political Rights.

Country visit

473. The Special Rapporteur takes this opportunity to reiterate his thanks to the Government for the visit he undertook from 14 to 23 January 2013. He recalls the exemplary cooperation of the Government during the mission and remains grateful for its continuous support to his mandate since its inception, and more generally for its efforts at promoting the rights to freedom of peaceful assembly and of association at the international level.

Uzbekistan

474. JUA 03/06/2014. Case no: UZB 2/2014. State reply: 12/08/2014. Alleged ongoing arbitrary detention of a human rights defender.

475. JUA 16/04/2014. Case no: UZB 1/2014. State reply: 05/09/2014 https://spdb.ohchr.org/hrdb/28th/Uzbekistan_05.09.14_(1.2014)_Trans.pdf. Alleged sentencing of a human rights defender as well as allegations of torture while in detention.

Observations

Responses to communications

476. The Special Rapporteur is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). He thanks the Government Uzbekistan for its replies to the communications sent during the reporting period.

Environment in which these rights are exercised

477. In relation to the case of Mr. Ganikhon Mamatkhonov, regional representative of the International Society for Protection of Human Rights in the Fergana province of Uzbekistan, the Special Rapporteur reiterates his concern that Mr. Mamatkhonov's detention, sentencing and appeal, and in particular his reported placement in a punishment cell, may be linked to his legitimate human rights activities (UZB 2/2014). The Special Rapporteur recalls article 22 of the International Covenant on Civil and Political Rights, which guarantees the right to freedom of association and Human Rights Council resolution

24/5, and in particular operative paragraph 2 that reminds States of their obligation to respect and fully protect the rights of all individuals to associate freely.

478. The Special Rapporteur would be grateful for more information concerning the legal grounds for the detention Mr. Mamatkhonov and how these measures are compatible with international norms and standards, including those related to the freedom of association stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. He would also appreciate information regarding any investigation, medical examinations, and judicial or other inquiries carried out in relation to Mr. Mamatkhonov's trial.

479. The Special Rapporteur notes the detailed reply on 5 September 2014, regarding the case of Mr. Fakhriddin Tillaev, a member of the Maslum Human Rights Centre and a founding member of the Union of Independent Trade Unions (UZB 1/2014). However, he maintains his concerns about the lack of due process in his trial and the severity of the case's sentencing. He would like greater information about the measures that have been taken to ensure that everyone in Uzbekistan can exercise the right to freedom of association, in particular trade unionists, and can carry out their peaceful and legitimate activities without fear restrictions or criminalization of any sort.

480. In light of the recent review of Uzbekistan by the Committee on Economic, Social and Cultural Rights in June 2014, the Special Rapporteur notes with concern information suggesting that, under the Non-governmental Organizations Act, associations are subject to mandatory registration and supervision by the Ministry of Justice (E/C.12/UZB/CO/2, paragraph 16). He reminds the State that the right to association equally protects registered and unregistered organizations and request it to repeal limiting laws regulating this right to ensure that it is exercised free from arbitrary restrictions, as recognized under article 22 of the International Covenant on Civil and Political Rights.

Country visits

481. In reference to the country visit requests he sent in September 2011 and October 2013, the Special Rapporteur would like the Government to takes note of his desire to carry out a country visit to Uzbekistan in the framework of his mandate. He hope to receive a positive reply from the Government, in the spirit of Human Rights Council resolutions 15/21 and 24/5 which call upon States to consider his requests for visits favourably.

VII. Middle East and North Africa region

482. The Special Rapporteur sent 38 communications to 12 countries in the Middle East and North Africa region. About half of his communications address allegations of violations of the right to peaceful assembly. The remaining communications concern prima facie violations of either solely the right to association or to both the right to association and peaceful assembly. He also acknowledges that the response rate was 58 per cent for the region.

483. He expresses concerns at the lack of enabling environments for the exercise of the rights to freely associate and to peacefully assemble in Middle East and North Africa Region. He is pleased to see that countries in this region share a common desire to maintain stability whilst promoting universal human rights values and standards. However, while most of the States of this region stress in their responses that human rights are an inherent part of their domestic legislations, he is concerned about the frequent resort to cultural, traditional or security considerations in order to categorically reject allegations. The Special Rapporteur therefore expresses his dismay at these types of rebuttals, particularly as the allegations are dismissed on these grounds without the consideration of conducting

necessary impartial and thorough investigations, in accordance with their obligations under international human rights law, to address and combat such incidents.

484. The Special Rapporteur recalls that although freedoms of peaceful assembly and association are not absolute, any restrictions must be in line with international human rights law, which provides that any limitations must be proportionate, and a necessary response to a pressing social need. These rights are enshrined, inter alia, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Arab Human Rights Charter. The Special Rapporteur calls on the States from the region to shift from discussions of human rights to swift implementation on the ground.

485. The Special Rapporteur highlights the importance of civil society's ability to express minority or dissenting beliefs and notes that being personally offended by actions or behaviours of an individual or group, does not count as incitement to violence. He acknowledges that there is a fine line between law and perceived morality. Therefore, intercultural and interregional dialogue is of crucial importance in understanding where cultural differences and sensitivities. However, the Special Rapporteur reminds the Governments of the region of the universality of international human rights law and urges that its application not be subjected to limitations not permissible under international law and standards.

486. The Special Rapporteur takes this opportunity to refer to the resolution 16/18 adopted by the Human Rights Council in 2011, which recognizes that the free exchange of ideas can play a positive role in promoting an environment of peace and respect and that calls for fostering a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs.

487. As the exercise of the rights to associate and peacefully assemble occurs increasingly over the Internet, the Special Rapporteur warns of regulations and practices in the region that seek to curb the enjoyment of these rights online. Moreover, he calls on the authorities to guarantee an unhampered access to the Internet and echoes Human Rights Council resolution 26/13 on the promotion, protection and enjoyment of human rights on the Internet. He also recalls Human Rights Council resolution 24/5 and the fundamental role of States in promoting and facilitating access to the Internet and the important role of new information and communications technologies in enabling and facilitating the enjoyment of the rights to freedom of peaceful assembly and of association.

Algeria

488. JUA 24/03/2014. Case no: DZA 1/2014. State reply: None. Allégations concernant des restrictions indues à la liberté d'opinion et d'expression dans la période pré-électorale en Algérie.

Observations

Réponses aux communications

489. Le Rapporteur spécial regrette ne pas avoir reçu de réponse à sa lettre datée du 24 mars 2014 dans laquelle il faisait notamment part de ses préoccupations quant à l'arrestation et courte détention de M. Hafnaoui Ghoul, suite à sa participation à une manifestation pacifique contre la candidature à la réélection du Président Abdelaziz Bouteflika. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, conformément aux résolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) du Conseil des Droits de l'Homme, et invite de ce

fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

Environnement dans lequel les droits sont exercés

490. Eu égard aux nombreuses informations qu'il reçoit régulièrement faisant état d'arrestation et de détention, souvent pour une courte durée, de militants associatifs ou syndicalistes, au cours de manifestations, le Rapporteur spécial exprime de sérieuses préoccupations quant à l'intégrité physique et psychologique de ceux exerçant leur droit à la liberté d'association et de réunion pacifique en Algérie. Il appelle les autorités à prendre des mesures positives pour protéger les acteurs associatifs et syndicalistes afin qu'ils puissent exercer leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

491. Plus généralement, il appelle les autorités à prendre toutes les mesures nécessaires pour assurer la mise en place d'un dialogue authentique avec les associations et les syndicats, y compris ceux critiques à l'égard du Gouvernement, dans la mesure où ils constituent des acteurs essentiels permettant aux autorités de prendre connaissance, d'appréhender et de traiter des aspirations et revendications de la population.

Visite de pays

492. Le Rapporteur spécial rappelle au Gouvernement ses demandes de visite formulées en 2011 et 2013. Il est convaincu qu'une visite du pays lui permettrait de mieux comprendre le contexte dans lequel le droit de réunion pacifique et d'association y est exercé et d'engager un dialogue constructif avec le Gouvernement sur ces questions. A la lumière de l'esprit des résolutions 15/21 et 24/5 du Conseil des droits de l'homme qui appelle les Etats à répondre favorablement aux demandes de visite, il espère recevoir une réponse positive du Gouvernement.

Bahrain

493. JUA 16/01/2015. Case no: BHR 1/2015. State reply: 12/02/2015. Alleged arbitrary arrest, detention and prosecution of the Secretary General of the main opposition political party in Bahrain and a religious key figure in the country.

494. JUA 19/12/2014. Case no: BHR 15/2014. State reply: None. Allegations of the sentencing of three women human rights defenders.

495. JUA 14/10/2014. Case no: BHR 13/2014. State reply: 24/11/2014. Alleged arbitrary arrest and detention of a human rights defender.

496. JUA 03/09/2014. Case no: BHR 12/2014. State reply: None. Allegations of the arrest and detention of the co-director of the Gulf Centre for Human Rights.

497. JUA 14/08/2014. Case no: BHR 11/2014. State reply: 21/10/2014. Alleged arbitrary arrest, detention, and torture of nine Bahraini nationals, including two minors, enforced disappearance of some of them, and convictions after trials that did not respect international standards of fair trial and due process of five of them.

498. JUA 11/08/2014. Case no: BHR 10/2014. State reply: 15/09/2014; 26/09/2014. Allegations of harassment and intimidation of members of the Bahrain Youth Society for Human Rights and the ongoing detention of one of its members.

499. JAL 11/07/2014. Case no: BHR 9/2014. State reply: None. Alleged destruction of the Pearl Roundabout monument and related imagery by Government security forces, as well as restricted public access to the site.

500. PR 04/02/2015. "Bahrain: UN rights experts urge release of opposition politician detained for peaceful expression"

501. PR 29/12/2014. "UN experts urge Bahrain to drop charges against women activists for Government criticism"

502. PR 05/09/2014. "UN experts urge Bahrain to release human rights defender Maryam Al-Khawaja"

Observations

Responses to communications

503. The Special Rapporteur thanks the Government of Bahrain for its numerous replies this reporting period and requests replies to the two communications for which no responses have been received. He recalls that he considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

504. Regarding the case of Mr. Sheikh Ahmed Ali Al-Salman, Secretary General of Al-Wefaq National Islamic Society, the main opposition movement in Bahrain, and a religious key figure in the country, who interrogated at least four times since the events of February 2011 in Bahrain, the Special Rapporteur notes the response of the Government. However, he expresses continued concern that the charges against this individual may be a result of his dissenting views and his exercise of the freedoms of association and of opinion and expression, and request further information in relation to the judicial investigations.

505. He recalls that the term "association" denotes "any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests" and that the term refers to, among others, "civil society organizations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or even online associations" (A/HRC/20/27, paragraph 51 and 52). He urges the Government to recognize that the rights to both freedom of peaceful assembly and association play a significant role in the development and survival of meaningful democratic systems since they allow for an environment where minority or dissenting views or beliefs are respected and enable dialogue, pluralism,tolerance and broadmindedness. The Special Rapporteur reiterates his grave concern about the sentencing of Ms. Maryam Al-Khawaja, Ms. Zainab Al-Khawaja, and Ms. Ghada Jamsheer (BHR 15/2014). Ms. Maryam Al-Khawaja is a human rights defender and the co-director of the Gulf Centre for Human Rights, whose arrest was the subject of another communication in this reporting period (BHR 12/2014). Ms. Maryam Al-Khawaja and her sister, a human rights defender and social media activist in Bahrain, are the daughters of the co-founder of the Bahrain centre for Human Rights defender, Mr. Abdulhadi Al-Khawaja, who has been detained since 2011. He also voices his dismay at the continued arbitrary detention of Ms. Jamsheer, the head of the Women's Petition Committee.

506. Moreover, the Special Rapporteur wishes to echo the observations of the Committee on the Elimination of Discrimination Against Women, which is concerned that under the current Law of Associations 21/1989, women's associations are prohibited from engaging in political activities and their freedom of association is "hindered by lengthy registration procedures and excessive supervision, in addition to the need to channel international funding requests to the Ministry of the Interior" (CEDAW/C/BHR/CO/3, paragraph 31).

507. In relation to the case of alleged arbitrary arrest, detention, and torture of nine Bahraini nationals, including two minors (BHR 11/2014), the Special Rapporteur takes

notes of the reply of the Government, however, he articulates his continued preoccupation that several of the cases mention violations of the right of peaceful assembly. He further stresses that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely (A/HRC/RES/24/5, operational paragraph 2).

508. The Special Rapporteur restates his concerns about alleged destruction of the "Pearl Roundabout" monument and related imagery, and continued prohibition of public access prohibition to the site. He voices alarm at the policy of removing from both public space and public memory the symbol of the pro-democratic movement of Bahrain and remains troubled about continued restrictions imposed on the rights of everyone to freedom of expression and peaceful assembly, as reported by civil society groups in the past few years. He stresses that laws governing freedom of assembly should avoid blanket time and location prohibitions, and provide for the prospect of other less intrusive restrictions, in compliance with international human rights standards and laws.

Human rights defenders and the right to association

509. In relation to the allegations of harassment and intimidation of members of the Bahrain Youth Society for Human Rights (BYSHR), he recalls his concerns about retaliation against the human rights defenders because of their organizations' work (BHR 10/2014). He emphasizes that while the State do not have to agree with the opinions and criticism expressed by persons espousing minority or dissenting views or beliefs, it has a positive obligation to ensure the existence of an enabling environment for civil society, including the enjoyment of the right of association, so that it may exist, operate and express itself freely and without fear (A/HRC/20/27, paragraph 63). He urges the authorities to implement all necessary measures to protect people exercising their right to freedom of association and peaceful assembly against threats, violence, intimidation or reprisals.

510. He considers threats against human rights defenders, including members of associations, a grave source of concern not only to the individuals affected, but more generally for the message it sends to other civil society actors who wish to engage in defence of human rights.

Reported reprisals

511. In connection with the case of alleged reprisal against Ms. Maryam Al-Khawaja (BHR 15/2014), the Special Rapporteur expressed dismay at the case of reprisal due to her cooperation with the United Nations and its human rights mechanisms.

512. The case of Mr. Nabeel Rajab, President of the Bahrain Centre for Human Rights and member of other human rights organizations, who has advocated for peaceful demonstrations to defend human rights in Bahrain, is also of serious concern to the Special Rapporteur (BHR 13/2014). He fears that this arrest and detention may be an act of reprisal for his several week trip to Europe, where he had advocated for the recognition of human rights in Bahrain and met with international and regional human rights mechanisms, including the Office of the United Nations High Commissioner for Human Rights (OHCHR).

513. In relation to these cases, the Special Rapporteur calls on the Government of Bahrain to take preventive steps against similar acts in the future and to ensure full investigations and accountability once they have occurred, in accordance with Human rights Council resolutions 12/2, 24/24 and 27/38.